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1923



PROCEEDINGS OF THE MADRAS LEGISLATIVE COUNCIL

THIRD SESSION

Vol. XIV.

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The Council re-assembled at the Council Chamber, Fort St. George, at 11 a.m. on Monday the 26th day of March 1923, the hon. Diwan Bahadur Sir P. RAJAGOPALA ACHARIYAR, K.O.S.I., C.I.E., President, presiding.

I

QUESTIONS AND ANSWERS.

[Order made by the President of the Madras Legislative Council under Standing Order No. 15—

(1) Printed copies of the questions and answers to be put and given at a meeting of the Council shall be placed on the Council table an hour before the President takes his seat.

(2) The questions shall be put and answered in the following manner:—

The Secretary shall call the name of each interpellator in alphabetical order, specify the serial numbers of his questions, and make a sufficient pause to allow him or any other member a reasonable opportunity of rising in his place if he is desirous of asking a supplementary question. Supplementary questions must be put immediately after the principal questions to which they relate.]

Executive Engineers in the City.

921 Q.—MR. T. SIVASANKARAM PILLAI: Will the hon. the Minister for Education and Public Works be pleased to state—

(1) if there has been a workshop and stores for the Public Works Department in the city of Madras in charge of an Executive Engineer and if so, for how long;

(2) what has been the annual cost of the workshop and the stores for each of the ten years ending with March 1922;

(3) whether the kind of articles turned out in the workshop cannot be got from any of the engineering firms in the city or elsewhere in the open market at lesser cost;

(4) whether it is a fact that the bulk of the engineering stores is ordered from foreign countries and that the Engineer in charge is entrusted with the work of receiving and distributing the said stores to the several Executive Engineers in the Presidency;

(5) whether there is an officer called the Agent for Government Consignments at the Madras Ports, appointed to take delivery of all foreign stores including the engineering articles;

(6) whether the work of receiving and distributing the engineering articles now being done by the Executive Engineer in charge of the workshop and the stores cannot be left to be done by the said Agent for Government Consignments with additional establishment, if necessary;

(7) whether the number of the Executive Engineers in the Madras City cannot be reduced by one without prejudice; and

(8) whether it is a fact that the Superintending Engineer in charge of the present V Circle has very little work by way of supervision over the workshop and the stores?

A.—(1) The Public Works Department Workshops and Stores, Madras, have been in existence since 1864. They are not in charge of an Executive Engineer but in charge of an officer who is outside the cadre of the Engineer establishment. His designation is General Superintendent, Public Works Department Workshops and Stores.

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- (2) The annual charges incurred in the Public Works Department Workshops and in the Public Works Stores are as follows :—

Public Works Workshops.

	RS.		RS.
1912-13	... 45,992	1917-18	... 73,412
1913-14	... 54,492	1918-19	... 82,476
1914-15	... 56,790	1919-20	... 90,579
1915-16	... 62,614	1920-21	... 1,18,839
1916-17	... 71,127	1921-22	... 1,05,856

N.B.—Increased charges are owing to increased orders.

During the war no money was spent on repairs and the increased charges were the result of heavy orders from the Board of Munitions.

Since the war the further increase is partly the result of increase of wages but until last year the orders have remained heavy and repairs to buildings and machinery are overdue. The charges will only fall considerably after these repairs are executed.

- (3) Many articles turned out by the Public Works Workshops could be manufactured by local Engineering firms and could be got in the open market but not at so low a cost.
- (4) In the past most of the stores have been obtained by Home indent, but local indents are freely made now. The General Superintendent prepares Home indents, places local indents and guarantees quality, receives and distributes stores to all Government departments and not only to the 34 Executive Engineers.
- (5) The answer is in the affirmative.
- (6) The answer is in the negative.
- (7) The number of officers in the Madras City has been reduced by one, the Stores and Workshops having been combined into one division under the General Superintendent with effect from 1st April 1922.
- (8) Yes.

The Superintending Engineer, V Circle, however controls the establishment of Shops and Stores.

Report of the Indigenous Drugs Committee.

922 Q.—Sriman BISWANATH DAS Mahasayo : Will the hon. the Minister for Local Self-Government be pleased to state—

(a) the action which the Government have taken or propose to take on the Report of the Indigenous Drugs Committee presided over by Khan Bahadur Usman Sahib, M.L.C. ; and

(b) whether they propose to place the said Report on the Editors' table for the use of the public ?

A.—(a) The Government have not yet considered the report which has only just been received.

(b) The question is under consideration.

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Police in the Rampa Agency Fituri.

923 Q.—Sriman BISWANATH DAS Mahasayo: Will the hon. the Home Member be pleased to state—

(a) the number of officers of different cadres of the police services and also the number of the police force now engaged in the Rampa Agency Fituri;

(b) whether a conference or conferences were held by the commanding officer with the people of the Agency during this year;

(c) if the answer is in the affirmative, whether the Government will be pleased to lay either the proceedings or the result or both on the table; and

(d) whether they or the Agency Commissioner have received any representation or telegram from the people or the village officers regarding police oppression till the end of 15th February 1923, ever since the outbreak of Fituri?

A.—(a) Superintendents ...	3	Sergeants ...	8
Assistant Superintendents. 11		Subadars and Jamadars...	19
Deputy Superintendents...	2	Head constables ...	73
Inspectors ...	6	Constables ...	655
Sub-Inspectors ...	28		

(b) Yes, frequently.

(c) There are no proceedings to lay on the table and there was very little result. Promises of help was freely given by the villagers, but were very seldom carried out.

(d) The only allegations of Police oppression were contained in three petitions sent to the Agency Commissioner in December after the engagements with the rebels at Peddageddapalem and Lingapuram when certain houses caught fire in the course of the operations. It was found that these petitions were all engineered by one man and all the villagers wanted was free permits to get timber to rebuild their houses. These have been granted.

II

COMMUNICATION TO THE COUNCIL.

With reference to the answer given to question No. 535 delivered at the meeting of the Council held on the 18th December 1922, the SECRETARY laid on the table the 'Proceedings' of the first meeting of the Road Board, Fort St. George, dated the 7th March 1921.

III

THE MADRAS HINDU RELIGIOUS ENDOWMENTS BILL, 1922.

The hon. the PRESIDENT :—“ Before taking up the consideration of the Madras Hindu Religious Endowments Bill, 1922, I should like to say a few words.

“ Hon. Members are aware that, though no specific time-limit is provided by Rules or Standing Orders in the case of speeches on Bills or other legislative business, I have, acting under my residual power of regulating the conduct of business in all matters not provided for in the Act, Rules or

[The President]

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Standing Orders, laid down in December 1921, and been enforcing since then, a time-limit of 30 minutes for every hon. Member making a motion and for the Member of Government answering him and 10 minutes for every other hon. Member. So far as the Religious Endowments Bill which the House is now taking up is concerned, notices of over 800 amendments have come in, and in view of the circumstance that the House has been hard at work on the Budget from the 12th of this month, it will, I think, be agreed that the limitation of the period and the consequent focussing of attention on important points of discussion is called for in the public interests. I have come to the conclusion that a time-limit of 10 minutes in regard to the mover of an amendment when moving it, and the Member answering on behalf of the Government in the first instance, and of 5 minutes in all other cases, may be imposed for the purpose of crystallizing the debate. In all probability the main principles of the Bill will have been settled when the definition and the first few clauses have been disposed of, and much of the subsequent debate will be concentrated on amendments, verbal in character or of a comparatively minor importance or of a consequential nature. I trust that hon. Members will realize that the step I have taken is absolutely necessary, and I appeal to them to give me their support in the matter."

The Madras Hindu Religious Endowments Bill, 1922, as amended by the Select Committee, was taken up for consideration.

Clause 1.

Clause 1, for which there was no amendment, was put and passed and allowed to stand part of the Bill.

(Amendment No. 1.)

New clause after Clause 1.

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" Sir, I beg to move—

(a) *Insert the following as clause 2 :—*

" 2. It shall come into force within a year or earlier when all the records and inventory of temple properties and maths have been gathered by the Board constituted under section 6 of the Act."

(b) *Re-number the subsequent clauses.*

Sir, this Bill has an illustrious pedigree. Eminent persons like Rama Ayyangar, Muttuswami Ayyar, Chentsal Rao and others have considered and left valuable reports on the conditions and management of religious institutions in this Presidency. The object with which I tabled this amendment was to suggest that, although the Bill should be passed into an Act now, the provisions should be enforced only a year after—a procedure advocated in one of the valuable reports mentioned above. I can only repeat that in previous Bills dates were omitted, and one Bill advocated that the Bill should be put into force four years after the date of its passing."

The hon. the RAJA OF PANAGAL :—" Sir, the amendment, if accepted, would land us in a vicious circle. The idea seems to be self-contradictory. The Board can function only after the Bill comes into operation. It is in fact a creature of the Act, and as such cannot function before the Act is put into force. The amendment therefore cannot be accepted."

The amendment was put and lost.

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Clause 2.

Sub-clause (1).

(Amendment No. 2.)

Rao Bahadur A. S. KRISHNA RAO PANTULU :—

For the word 'It' substitute the words 'This Act'.

"Sir, the amendment that stands in my name is more of a drafting character than anything else. It will be found that the words 'This Act' are used in sub-clauses 2 and 3, but not in sub-clause 1. We generally find that reference is made in subsequent clauses only to words used in the previous clause."

The hon. the RAJA OF PANAGAL :—"Sir, I have no objection to the amendment. It is a mere verbal amendment and is harmless."

The amendment was put and carried.

(Amendment No. 3.)

Rao Sahib U. RAMA RAO :—

After the words 'Presidency of Madras' insert the words 'except South Kanara'.

"Mr. President, Sir, the South Kanara district stands on a different footing altogether from other districts. The temples and mutts of South Kanara have a different tale to tell. In the first place, I want to know whether the Minister in charge of the Bill has obtained enough of information from this district to justify his including them in the purview of this Bill. Sir, I am a native of South Kanara, and, to my knowledge, no mismanagement of any kind exists in the temples and mutts of South Kanara, for they are, with very few exceptions, very poor and have not got enough of income to meet their own expenses. Unless the devotees give something in the shape of *dakshina* or *kanika*, the affairs of the temple cannot be properly managed. So if a Bill like this is forced upon them, the whole temple management will go to ruin.

"There is another thing which is very peculiar to South Kanara. Every community there has its own temple. For example, the Brahmans have their own temple, and every sect of the Brahmans (Madhwa, Saivite, etc.) has its own temple. Non-Brahmans also, like Bants or Nadavas, have their own temples; they are their own trustees, and they have their own committee management. Under these circumstances, I do not see any reason why the temples of South Kanara should be brought within the purview of this Bill and made to pay a contribution of 3 per cent towards the maintenance of a Board of Directors elsewhere. Then again, there are certain temples which may be called family temples and to which the ordinary public cannot have recourse. According to the present provisions, even such temples will be brought under this Bill.

"In fact, I wanted to include Malabar also in this amendment so that South Kanara and Malabar might be exempted from this Bill. But as my hon. friend from Malabar, who is with the party in power, had tabled an amendment, I thought he might have a chance of carrying out that particular amendment. So I did not include Malabar, though South Kanara and

11-15 a.m.

[Mr. U. Rama Rao]

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Clause 2—cont.

Malabar both stand on the same footing in this respect. With these few words, I appeal to the hon. the Minister to exclude South Kanara where there is no mismanagement of temples at all."

The hon. the RAJA OF PANAGAL :—"Sir, my hon. friend, Mr. Rama Rao, suggested that there was no mismanagement in the case of temples and mutts in South Kanara. If that is true, there need not be any anxiety on the part of the managers of those institutions about the introduction of this Bill.

"Sir, the hon. mover said that this Bill might affect private temples. Private temples are excluded from the operation of the clauses of the Bill. The provisions of the Bill apply only to public temples.

"Sir, he further observed that there were different communities owning different temples each having its own committee to manage. That is a matter for consideration by the Board when it has to frame schemes. In any case, there are amendments, notices of which have been given under sub-clause (2) of clause 2. This question of exemption in favour of any particular temple or mutt for extraordinary reasons will be considered when that sub-clause is taken up for discussion. As to contribution, it is a sort of insurance fee."

Rao Sahib U. RAMA RAO :—"Sir, the hon. the Minister said that if there was no mismanagement the temple authorities need not be anxious. But all the same, they are made to pay a contribution of 3 per cent unnecessarily. They are awfully poor and cannot pay. But if the hon. the Minister promises to consider their case for exempting them from these charges, I shall not press the amendment."

The hon. the RAJA OF PANAGAL :—"It is a matter for the Board to examine each case as it comes and decide it on its merits."

Rao Sahib U. RAMA RAO :—"If that is the case, I shall withdraw my amendment."

The amendment was by leave withdrawn.

(Amendment No. 4.)

Rao Bahadur O. TANIKACHALA CHETTIYAR :—"Sir, Mr. President, I am asking that—

The words 'save and except the City of Madras' be inserted after the words 'Presidency of Madras.'

"My object is to see that in this Bill no illegality or irregularity from a constitutional point of view creeps in. I may point out that this Bill, as originally presented to this House, had excluded the City of Madras from its operation. I may say, Sir, that the saying 'first thoughts are always the best thoughts' is well illustrated by what has happened. Unfortunately, an after-thought has crept into this Bill apparently by way of submission to an agitation which was carried on by certain hon. Members of this House, as to why Madras should be exceptionally treated. With reference to that argument, my hon. friend, the Raja of Panagal, said in his speech the other day in answering the criticisms passed on the Bill when it was introduced :—

One refers to the fact that Madras City has been excluded from the operation of the Bill. It was the intention of this Government to bring Madras within the scope of the Bill, but the Government of India objected to its inclusion on technical considerations; for in the Bill as

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Clause 2—cont.

was originally drafted, power was given to the Original Side of the High Court to entertain suits and the Government of India thought that the Local Legislature could not invest the High Court with jurisdiction.

I am afraid, Sir, there is some misapprehension as to the object with which the Government of India objected to investing the High Court with jurisdiction. But the High Court is fully invested with jurisdiction conferred upon it by the Letters Patent which is a document emanating from the Houses of Parliament, and it is not open to the Indian Legislature to alter what has been laid down as conferring this jurisdiction by the Letters Patent. For, with respect to the City of Madras, the jurisdiction of the High Court on the Original Side is derived from Sections 11 and 12 of the Letters Patent. With reference to all the mufassal courts including the City Civil Court in Madras, the jurisdiction is derived by virtue of legislation passed by the Government of India or by the Local Government. That being the difference, it is not, I submit, open to Provincial Legislatures to interfere with the jurisdiction of the High Court, even though it may be with the previous sanction of the Government of India, unless also sanction of the British Parliament has been accorded to take away the jurisdiction possessed by the Original Side of the High Court in virtue of Sections 11 and 12 of the Letters Patent.

“Sir, I may draw the attention of the House to Section 65 of the Government of India Act which says :

The Indian Legislature has power to make laws —

(a) for all persons, for all courts, and for all places and things, within British India; and Provided that the Indian Legislature has not, unless expressly so authorized by Act of Parliament, power to make any law repealing or affecting—

(i) any Act of Parliament passed after the year one thousand eight hundred and sixty and extending to British India including the Army Act and any Act amending the same.

The inclusion of Madras within the operation of this Bill would, in fact, amend the jurisdiction conferred by the Letters Patent upon the High Court of Madras. I shall invite the attention of the House, with your indulgence, to Section 12 of the Letters Patent issued in respect of Madras :

And we do further ordain that the said High Court of Judicature at Madras, in the exercise of its ordinary original civil jurisdiction, shall be empowered to receive, try, and determine suits of every description, if, in the case of suits for land or other immovable property, such land or property shall be situated or in all other cases if the cause of action shall have arisen, either wholly or, in case the leave of the court shall have been first obtained, in part, within the local limits of the ordinary original jurisdiction of the said High Court, or if the defendant at the time of the commencement of the suit shall dwell or carry on business, or personally work for gain, within such limits; except that the said High Court shall not have such original jurisdiction in cases falling within the jurisdiction of the Small Cause Court at Madras, in which the debt or damage, or value of the property sued for, does not exceed one hundred rupees.

Sir, this limitation is only in respect of property which does not exceed Rs. 100. This means that property which is below Rs. 100 cannot be the subject of any suit or proceeding entertained by the High Court. But in respect of all others the High Court is the proper authority and no exception to the jurisdiction of the High Court can be taken on the ground that its value is, say, about Rs. 1,000, or Rs. 2,000 or even Rs. 2,500. I know, Sir, that we are all accustomed to saying that the jurisdiction of the City Civil Court is to the extent of Rs. 2,500. That is only a right or privilege given to a litigant to take it to the City Civil Court. But the privilege to have one's suit filed in the High Court cannot be taken away by the Indian Legislature, and the only penalty which is provided for people who want to

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Clause 2—cont.

have the luxury of litigation on the Original Side for sums exceeding Rs. 100 is that in the discretion of the Court the successful party may be deprived of his costs as a suit instituted on the Original Side of the High Court, while it could also be instituted in the City Civil Court. This being so, it would not be right by clause 2 of this Bill to extend the provisions of this Bill to the whole of the Madras Presidency regardless of the extensive power conferred upon the Original Side of the High Court by the Letters Patent. Moreover, it is said in clause 3 of this Bill :

Nothing in this Act shall be construed to affect, or in any way derogate from, the powers in respect of religious endowments which the Advocate-General may exercise under sub-section (2) of section 114 of the Government of India Act or which the High Court in the exercise of its ordinary original civil jurisdiction may possess.

“ Sir, I am aware that there are a number of rich temples in the city of Madras, such as the Sri Parthasarathiswami temple at Triplicane, the Ekambaranathaswami temple and the Kandaswami temple in Georgetown, for each one of which a scheme has been framed by the High Court. I am aware of a provision here that religious institutions or endowments in respect of which schemes have been framed by the High Court may be treated as part of the schemes to be regulated or given effect to by the Board or the Committee to be appointed therefor. But a question arises in a case of this kind. Under clause 65, it is said :

(1) Every math and temple shall pay annually for meeting the expenses of the Board such contribution not exceeding one and a half per centum of its income as the Board may determine.

(2) Every temple other than an excepted temple shall pay annually for meeting the expenses of the Committee such contribution not exceeding one and a half per centum of its income as the Committee may with the approval of the Board determine.

“ Then again clause 66 says :

(1) The costs, expenses and contributions payable under sections 64 and 65 shall be assessed on and notified to the trustee of every math and temple in the prescribed manner.

(2) Such trustee shall within three months of his receipt of such notice pay out of the funds of the math or temple concerned the amount so demanded to the President of the Board or Committee, as the case may be, or to any person authorized by him; and, in default of his doing so, the court shall, on the application of the President of the Board or Committee, recover the amount as if a decree had been passed for the amount by the court against the religious endowment concerned.

“ I now raise the question whether the ‘ Court ’ is a District Court or the City Civil Court. Is the Court going to execute as a decree the application of the Board for recovery of any contribution which the Board or the Committee may impose on temples? Can also, in the case of schemes already framed by the High Court in its original jurisdiction or in respect of such schemes, the matter be moved in the High Court itself? Does the Board or a Committee take upon itself the power of deciding matters or take concurrent jurisdiction with the High Court?

“ Again, Sir, under clause 69 it is said :

Sections 92 and 93 and Rule 8 of Order I of the First Schedule of the Code of Civil Procedure, 1908, shall have no application to any suit claiming any relief in respect of the administration or management of a religious endowment and no suit in respect of such administration or management shall be instituted except in conformity with the provisions of this section.

“ Sir, I beg to submit that, so far as the Original Side of the High Court which derives its power from the Letters Patent is concerned, it is not open to the local Legislature to restrict the power it has of entertaining suits of

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Clause 2—cont.

any description by limitations such as these. It may be answered on behalf of the Government that the scheme of this Act will not have operation on such religious institutions as are already governed by schemes, so far as the City of Madras is concerned, or in respect of temples or other institutions the income of which does not exceed Rs. 250. But then the question arises as to why you should include the City of Madras or the temples which are already governed by schemes framed by the Original Side of the High Court. Is it to be merely of an academic interest or are you furnishing material for issues to be fought as to the jurisdiction of the courts or of the various authorities constituted under the Bill?"

11-30 a.m. The hon. Mr. C. P. RAMASWAMI AYYAR :—" Mr. President, Sir, I may say at once"

Rao Bahadur C. V. S. NARASIMHARAJU :—" Sir, is it not necessary that the amendment should be seconded?"

The hon. the PRESIDENT :—" No, it is not necessary."

The hon. Mr. C. P. RAMASWAMI AYYAR :—" Mr. President, Sir, I may at once say that the objection raised by my hon. friend, Mr. Tanikachala Chettiyar, is valid up to a certain point. It is undoubted that the jurisdiction of the High Court on its Original Side cannot be interfered with by legislation of this type, and indeed in a case reported in 44 Madras, 446, the Act, generally styled Seshagiri Ayyar's Act, was held to be *ultra vires* in so far as it purported to affect the original jurisdiction of the High Court. Therefore, when it is remembered that Clause 3 definitely saves the powers of the Advocate-General exercised under Section 114 of the Government of India Act and the jurisdiction of the High Court—its ordinary, original civil jurisdiction—, it is clear that this Bill does not purport to affect its ordinary civil jurisdiction. Therefore, I think I may also say at once that in so far as any schemes may have been framed by the High Court on its Original Side the working out, modification and results of such schemes cannot be affected by this Bill. This is also correct. Then, it may be asked, 'What is the use of bringing in the City Civil Court?' Now, under the City Civil Court Act, Section 6 undoubtedly saves the jurisdiction of the Original Side of the High Court; but there is nothing to prevent the City Civil Court from trying cases cognizable by the Original Side if the parties to the suit consent to such trial. The object in giving power to the City Civil Court is to provide for those cases in which, having regard to the comparative scantiness of the resources and the smallness of the income, parties might be willing to go in under the powers of the City Civil Court. It is only for this purpose that the Bill is intended, and the Government recognize that it is a partial measure."

Rao Bahadur O. TANIKACHALA CHETTIYAR :—" Sir, so far as the latter portion of the speech of the hon. the Law Member is concerned, viz., that certain properties within the jurisdiction of the City Civil Court, I do point out that the properties in respect of which the City Civil Court has jurisdiction are not so low as Rs. 100. Then if the value is Rs. 100, the income coming from it cannot be anything worth speaking of. In fact, under this Bill, properties of temples, the income of which falls short of Rs. 250, are excluded from the scope of its operation. Then, what object is gained by putting on the statute-book a measure which is only of an academic interest, but which

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Clause 2—cont.

will have no practical effect? If temples with such scanty incomes as Rs. 250 are not within the scope of this Bill—and to secure an income of Rs. 250, the property must be worth Rs. 4,000 or Rs. 5,000—and they are therefore within the jurisdiction of the High Court, and the jurisdiction with respect to them cannot be ousted by this Act, what is the use of having such a Bill as this? It can only create confusion and furnish an opportunity to those who are wrong-minded to harass the people. I may say with a certain sense of responsibility that if this provision is retained, it is likely to lead to conflict between the authorities constituted by this Act and the various temples in Madras whose rights, it may be pretended, will be affected by this Bill. They will challenge the jurisdiction of this legislature to introduce a provision relating to the City of Madras. For these reasons I do ask that this amendment might be decided by this House."

Mr. C. MADHAVAN NAYAR (Advocate-General):—"Mr. President, Sir, there is really nothing which deserves any serious reply to the position now taken up by my hon. friend. His point is that there will be no property below Rs. 2,500. But it is quite possible for people, by consent, to arrange about the value of the properties forming the subject matter of suits. Therefore in this way the argument can be met, and really there is no point in what my hon. friend has put forward."

The amendment was put to the House and lost.

(Amendment No. 5.)

Mr. K. PRABHAKARAN TAMPAN :—"Mr. President, Sir, I beg to move the first part of my amendment, and that is :

After the words ' Presidency of Madras ', insert the words ' save and except the district of Malabar '.

"Sir, I am afraid I shall not be able to do justice to the amendment under my name within the short time allotted to me; but if you will kindly show me some indulgence, and if the hon. Members will bear with me for a short while, I hope to be able to show that for all that might be said to the contrary, it is not altogether without reasonable grounds that I request that the district of Malabar should be excluded from the operations of this Bill. I said at the First Reading of the Bill that temples and *devaswams* in Malabar were, as in all other matters, peculiar and stood on a very much different footing from those in other districts. Elsewhere, such institutions are mostly founded out of the donations of an indefinite and unknown body of general public without any specific intention to reserve to themselves any private right or control over the corpus or income of such donations. The close and compact village life in the East Coast gives occasion for public places of common worship, many of them having their origin in Puranic antiquity without any identity as to their founders or donors. But the configuration of the villages in Malabar and the peculiar social habits of its inhabitants with their rigid customs and disabilities render such an origin of a common place of worship impossible. *Tarwad* houses scattered apart, each at a distance of a mile or two from one another, are grouped together only for administrative purposes. Each house is a self-sufficient entity, with its compound and garden, grazing and cremation ground, paddy field, bathing tank and temple.

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Clause 2—cont.

Except in a few localities in the Palghat taluk that are exposed to the eastern influence, there is hardly any tank or temple that may be called a public property in Malabar, although no one belonging to a caste inferior to that of the owner is generally denied access to it. This has been uniformly recognized in judicial decisions. Mr. Justice Seshagiri Ayyar, an eminent Judge and experienced lawyer, says in one of his judgments as follows :

In Malabar, people are divided into *tarwads* which are practically domains, each clan or *tarwad* has its place of worship, its own burial-ground, its own bathing tank, etc. Each of these *tarwads* has been regarding itself as a separate entity different from the rest. There are therefore numerous private temples in Malabar and the questions which have come before courts mostly relate to the trusteeship in such temples among members of the *tarwad*. Malabar, in this respect, stands by itself. This clannish feeling is not what we find outside the West Coast. In the South, common ownership in the temple and communal rights in the burial-ground and in bathing places are everywhere to be found.

“So also in the matter of the Keralapuram temple in Koduvayar—a case that came on second appeal to the High Court, before Sir Abdur Rahim and Napier, JJ., and in letters patent appeal, before Sir John Wallis and Spencer, JJ.,—the view was held that a village of roughly 160 members can be owners of a private temple. Every *tarwad* having the least pretensions to respectability had its own temple mainly for the use of its members and dedicated a portion of the family property for its maintenance. As a matter of fact, many a *tarwad* or *illom* has consecrated itself by dedicating all its properties in the name of its guardian deity. Tradition has it that the whole of the Travancore State is dedicated to the great Padbanabaswami, and the Maharaja is only His humble servant. This conception is typical of the general feeling in the whole of Kerala, and every temple is more or less of this kind. This view is borne out with little alteration by Mr. Logan, one of our distinguished Collectors and an eminent authority on Malabar matters. He says in his Malabar Special Commission Report :

In former times it was considered to be incumbent on every family of any position to endow one or more temples. I have reason to think also that these endowments were also largely increased in a way not unknown in Europe, where the Church reaped the benefits of such endowments and in return guaranteed the safety of the endower against the might of some powerful adversary. But in all such cases, the family of the original grantor retained a voice as Uralen in the management of the endowed institution and the institution itself has always been regarded more or less in the light of private property. (Paragraphs 238 and 239.)

“It may be that fear of internal dissipation and external aggression has led to the nominal dedication of the family property to the family temples. Between the period of the last Cheraman Perumal and the establishment of British power by the defeat of Tippu Sultan, Malabar was the scene of constant internecine wars and quarrels. Life was unsettled and property extremely unsafe. The nominal dedication of the family property to a family temple did not deprive its members of the virtual use of it while it forcibly operated as a powerful deterrent against the ruthless rapacity of an enemy. It must also be said to the credit of the invaders of Malabar, excepting Tippu Sultan, that they scrupulously respected the religious prejudices of the Hindus. Or it may be, in those remote ages the Hindus of Malabar got at the Muhammadan idea of tying up the family property to a family god or deity as the ultimate residuary of their wealth as a means of preserving their family property. This can be satisfactorily accounted for by the close contact with and settlements of Arab Muhammadan traders on the Malabar Coast from whom our ancestors might have copied the Muhammadan form of dedication known as *Wakf*, by which though the property was nominally

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Clause 2—cont.

dedicated to God, the family got the benefit till it lasted, and on its extinction it went to the fulfilment of the dedicated object. This ostensible dedication of the family property to a family temple did not deprive its members of the virtual use of it and it often contributed to dissuade the manager of the family from mismanaging it for fear of incurring the divine displeasure. In my own family, i.e., the estate set apart for the maintenance of its junior members, the management of which is vested in the eldest lady of the house, there are some temples with large endowments directly under her control. Wherever family properties are in the hands of females, trusteeship of the temples attached thereto has also devolved upon them, sex disabilities not operating as any disqualification for such offices. If regard be had to the line of succession to the management of Malabar temples which is invariably vested in the *karnavan* of the *tarwad* or *illom* for the time being and in case of a removal or any disability attaching to the *karnavan*, the management of the temples and its properties descends alike to the next *karnavan*, the family character of the temple property becomes quite patent. It will therefore be easily understood why the law courts have uniformly held that the trusteeship of a temple belonging to a Malabar *tarwad* is indefeasible and hereditary and also indivisible and inalienable. It has also been held that each member of a trustee's family has a right of questioning and setting aside any act of misfeasance by the trustee thereby affording ample protection to the temple properties in Malabar.

"It was because of these reasons that the previous enactments on religious endowments did not apply to Malabar. Agreeably to the provisions of Regulation 7 of 1817 which was passed with a view to exercise the *melkoima* right of the Crown over all religious and charitable endowments in the Presidency, Mr. Green, who was then the Commissioner of Malabar, prepared a detailed list of all temples in the district showing the right and usages attached to each temple and the character of their trustee or trustees. In the report he submitted to the Board of Revenue he recommended that all temples in Malabar were more or less private endowments and interference in their affairs was unjust and unnecessary. The correctness of Mr. Green's *paimash* has to this day not been impugned, and in all disputes concerning temple properties and trusteeships it is being freely availed of as the safest and most reliable evidence by the law courts. Mr. Vaughan who succeeded Mr. Green also recommended in his letter, dated 23rd December 1817, the same course and accordingly the Board of Revenue resolved not to exercise any right of control over temples in Malabar. In 1841, when Government were taking steps to carry out their policy of withdrawing their *melkoima* right over these institutions, Mr. Conolley, the Collector of Malabar, wrote :

The pagodas in Malabar generally are and always have been independent of the Government interference. They were either the property of some influential family the ancestors of which built and endowed them or, as is commonly the case, are claimed and managed by a body of trustees called Ooralans who desire their rights from immemorial inheritance.

"He reported that the only temples under the management of the Government were those that had escheated from the Battath Raja and the Chenat Nair which were recommended to be handed over to the Zamorin of Calicut and the Raja of Palghat respectively. The Government approved of his proposal and the escheated temples were accordingly entrusted to these chiefs who are still managing them as their own temples.

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Clause 2—cont.

“When the Regulation 7 of 1817 was superseded by Act XX of 1863, it was not enforced with regard to Malabar temples. Mr. Ballard, the Collector of Malabar at that time, reported in his letter that the Act was ill-adapted to Malabar, and as there were no temples of a public character in the district the Regulation of 1817 was not enforced and therefore the new Act could not apply. He made out also a strong case that even the trustees of these escheated temples that were handed over by the Government in 1842 were not without any claims to the management of those temples and should not be interfered with. Malabar was therefore let alone. That this Act did not extend to Malabar was also decided by the High Court in *Ittunni Panicker v. Iravi Nambudripad* in 3 Madras, 401.

“Later on, when the hon. Mr. Rama Ayyangar drafted his Bill in 1872, Mr. G. A. Sharp, the then District Judge of Malabar, in his letter, dated 1st April 1872, stated that so far as Malabar temples were concerned no new law was necessary, the law as administered in British Courts of Justice and public opinion giving ample protection to such institutions, and that the trustees of these temples had independent rights of ownership over them and the properties attached thereto unlike their compeers in other districts.

“It is apparent therefore that it is only now, for the first time in the history of British India, that Malabar is contemplated to be brought under control in regard to its religious endowments. It is therefore incumbent on the framer of the Bill and his supporters to show what new facts, what new evidence has been adduced and duly considered to warrant a change of policy in regard to our temples. Not the slightest consideration seems to have been given to the previous history and the overwhelming mass of evidence on the subject which is absolutely unimpeachable and eminently reliable. The Select Committee has not cared to devote a line in its report to justify this new step. I take it they have proceeded on the assumption that our temples are on a par with those in other districts and might be brought under the scope of the proposed Bill. It is said, and the hon. Ministers used it as an argument the other day, that sections 92 and 93 of the Civil Procedure Code have not been excluded from Malabar and there have been instances in which they were resorted to. The Minister said that the present Bill would apply only to such cases. So far as I know, there is only one temple in Malabar for which a scheme has been framed by the High Court; there the family of the original trustee or trustees became extinct and the management devolved upon new people and the question of the applicability of these sections did not arise. Two other cases that came up before the High Court were dismissed without entering into their merits. The public character of the temple arose only when the family of the original donors became extinct or the management changed hands through some circumstance or other. It may be there are a few such temples. Is it expedient and prudent to legislate for the sake of a few, while in general an attempt in that direction will only tend to deprive temple property from those families who have endowed it calling themselves *udamas* or *wallams* and managing it unchallenged by any, and accountable to none? One is tempted to call it confiscation pure and simple. Grave social and economic crisis is bound to arise in Malabar in the wake of this ominous Bill.”

The hon. the RAJA OF PANAGAL :—“Mr. President, the amendment of my hon. friend from Malabar stands on the same footing as that of my hon. friend from South Kanara. Mr. Prabhakaran

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Clause 2—cont.

Tampan referred to the fact that the district of Malabar was excluded from the operation of the Regulation of 1817 and of the Act of 1863. But, Sir, later provisions of the Civil Procedure Code do not exclude the Malabar district from their operation. He himself has admitted that there has been a case brought under that provision. My hon. friend has referred to private temples and the chances of the Bill interfering with them. I may assure him, Sir, that it is not the object of this legislation to interfere with private temples, temples which do not come under the definition laid down in clause 5, sub-clause (12). Besides, Sir, as I have stated in the case of South Kanara, if there are any extraordinary circumstances which would justify the exclusion of any particular temple in Malabar from the operation of the provisions of the Bill, that is a matter for consideration. Amendment No. 9 of Mr. Venkataramana Ayyangar raises that question. When that amendment is taken up for discussion the House will decide it on its merits."

MR. K. PRABHAKARAN TAMPAN:—"Sir, I am not satisfied with the arguments advanced by the hon. Minister and I press my amendment."

The amendment was put and lost.

(Amendment No. 6.)

MR. K. PRABHAKARAN TAMPAN:—"As this part of my amendment has been lost, I formally move the other part which reads—

For Clause 2, Sub-Clause (1), substitute—

- '(1) It extends to the whole of the Presidency of Madras except the district of Malabar and applies, save as hereinafter provided, to all Hindu religious endowments other than Jain religious endowments and the Local Government may by notification extend the provisions of this Act and of any rules framed thereunder to such religious endowments or classes of religious endowments or religious endowments in such areas in the district of Malabar as may be determined upon by the Local Government after enquiry, and may declare such extension to be subject to such restrictions and modifications as they think fit.'

The motion was put and lost.

(Amendment No. 7.)

DIWAN BAHADUR L. A. GOVINDARAGHAVA AYYAR:—"Sir, I beg to move:—

After the word 'Hindu' insert the word 'public'.

"Sir, my amendment is a formal one. The hon. Minister told us that it was not the idea of the framers of this Bill to make it applicable to the case of private religious endowments. It is to make this fact plain, that I have suggested that the expression 'public religious endowments' be inserted instead of 'Hindu religious endowments.'"

THE HON. THE RAJA OF PANAGAL:—"I think the amendment is not necessary because we have taken care to define temple as a place of public religious worship. But if my hon. friend thinks that the amendment is necessary to make the definition free from any doubt, I have no objection to accept it."

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Clause 2—cont.

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"The consideration that the hon. Raja referred to was also present in my mind when I suggested the amendment and I have no reason for changing my view. I press my amendment."

The hon. the RAJA OF PANAGAL :—"Sir, I accept it then."

The amendment was put and carried.

(Amendment No. 8.)

Rao Sahib U. RAMA RAO :—"Mr. President, Sir, I beg to move—

After the words 'other than' insert the words 'maths and'.

"Sir, the most objectionable part of the Bill is the inclusion of maths also under its operation. The legislature has not got any legal right to interfere in the affairs of the maths. Hereditary trustees of temples and maths have been managing their affairs for the last eighty years and more, and as such they have certain rights and privileges against the Government, which the Bill seeks to destroy. No case of mismanagement of funds has as yet been made public, and the uncalled-for interference in the affairs of the maths will be characterized as nothing short of a violent invasion on rights to property. Neither the disciples of the maths, nor the disciples of the *Jagatgurus*, have ever made any representations to the Government to come and set right their internal affairs. The irresponsible and unfounded cry raised in some quarters about the misuse and abuse of math funds cannot be the basis for a legislation of the nature proposed to be introduced at present. The *matadhipatis* are mostly Brahmans and the present Bill will be interpreted as an attempt of the party in power to exploit their resources."

Diwan Bahadur P. KESAVA PILLAI :—"There are many non-Brahman maths also."

Rao Sahib U. RAMA RAO :—"The system of voting large grants of money and property to religious endowments can be traced back to the period even prior to the Vedic Ages. King Janaka, we are told, placed the whole of his kingdom under the disposal of his *guru*. The relative positions of the *guru* and the *shishya*, at least as far as Hinduism is concerned, is not what is generally accepted as the modern standard. Even Bhagwan Sri Krishna brought up his *acharya's* long deceased son back to life as a sort of *gurudakshina*. In the case of the *matadhipatis*, the people honour their personality more than the institution. Their Holinesses *Jagatgurus* Sankaracharya of Kumbhakōnam and of Sringeri Math are honoured everywhere. That a Board of laymen should exercise dictatorship over a *Jagatguru* is highly irreligious and must be viewed as an outrage against Hinduism.

"The various maths that are scattered over the country were not at any time created by the rulers of the land. They have got their own glorious tale to tell. Wandering ascetics of Ancient India formed themselves into groups and selected places for meditation, penance and holy communion with God. As time progressed they got disciples and the maths came into existence. The math is an institution primarily intended for the spiritual welfare of its disciples, and the *matadhipati* is an ascetic who has no interest other than that of the math. The charges of abuse that have been hurled against the maths have

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Clause 2—cont.

often been the mischievous insinuations of interested people who were in one way or other discontented with a particular math. Even granting that there are stray cases of defalcation of funds or mismanagement, that cannot be the reason for passing a Bill of far-reaching importance to curtail the powers of the heads of all these institutions. No institution is absolutely perfect, and so it may be with the maths. The disciples of the maths are people who have attained a high stage of spirituality and they will not tolerate any abuse of the math funds.

"There is every possibility of divergence of opinion between the *matadhipatis* and the Board of Charity Commissioners. The question of the propriety and impropriety of allotting funds for certain purposes will not be viewed from the same angle of vision by the devotee and the ordinary layman. The *sanyasi* may like to spend some money upon chanting prayer, but the Board may consider it of secondary importance and would opine that the sum could be usefully spent upon sanitation. There is also the possibility of curtailment of funds for the yearly festivals, as the pomp and splendour in them are likely to appear as superfluous to a Board composed of laymen. This Bill is more an attempt to introduce the much-hated element of materialism even in the matter of religious service against which it is the duty of every true Hindu to enter his emphatic protest. We do not want any of the ancient usages or customs, which we cherish most dear, to be trampled upon by a piece of legislation.

"The *matadhipati* is required to keep accounts and submit them for the general superintendence of the Board. The *sanyasins* will be mostly touring from place to place, and they cannot be expected to adjust themselves to any rules or regulations that govern the workings of modern institutions. The disciples themselves keep strict accounts, and they are not bound to satisfy any other foreign agency. Frequently it so happens that the *Swamiji* gives some money as gift to any learned man who visits him. A Board which looks for economy and surplus funds is not likely to allow such a course of action. The ancient Hindu Kings of India gave all their support to religious endowments. The Muhammadan Emperors of the later period did not interfere with religious institutions. The East India Company, when they took charge of the management and control of religious institutions, left the maths alone. After the transference of authority to the Crown of England, Her Majesty Queen Victoria issued the famous Proclamation promising to abstain from all interference in religious matters and it must be said to the credit of the British Government in India that they have acted up to that promise up to the present day. But it is a matter of regret that the present Bill attempts at the violation of the sacred pledges given from the Imperial throne.

"The iniquitous features of the Bill will become more clear when we realize that only the Hindu religious endowments are included in its operation. The Christian churches and Muhammadan mosques are left alone. Will the Catholic community ever accept the domination of a Board of laymen over His Holiness the Pope of Rome? Will the several Young Men's Christian Associations in India tolerate the idea of dictatorship by a foreign agency in the allocation of funds for the various functions of their religious institutions? A good deal of the money that is now spent upon propaganda work for converting poor Hindus could be more usefully spent upon other charitable purposes. Or, are we to understand that defalcation of funds,

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misappropriation and mismanagement of trust property are confined to Hindu endowments only? Facts would prove otherwise. I quote the above instances not to include the Christian and Muhammadan endowments within the purview of the Bill but only to show that the attack is directed only to those points where the relation is considered to be feeble or ineffective.

"The agitation of the Akali Sikhs of the Punjab to uphold their religious tenets and of the Indian Mussalmans for the restoration of the Khilafate must come as an eye-opener to the Government that an attempt to interfere or annoy or wound religious feelings would lead to disastrous consequences. Particularly, the simple, mild and seemingly harmless Swamijis who confine themselves to religious teachings in normal times, may become dangerous elements very difficult to handle if their traditional rights and privileges are attacked. We have enough of agitation in the land and would be well-advised to have nothing more.

"With these few words, I strongly commend my amendment for the acceptance of the House."

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I strongly support the motion before the House. Till now some attempts have been made to bring the *maths* under legislative control; but they have proved futile. We find that out of the eight Bills that were introduced here and in the Supreme Legislative Council, only two sought to include the *maths* within their scope. Both the Bills sought to be introduced in this Council, Mr. Chentsal Rao's and Mr. Muttuswami Ayyar's, definitely excluded the *maths* from the scope of their operation. Mr. Chentsal Rao's Bill was in 1900, and during the last 23 years nothing new has intervened; no new circumstances have crept in to compel the legislature to include the *maths*.

"My next point is this. There is a fundamental error which the legislature has committed with reference to the rights of the *maths*. My contention is that the properties belonging to the *maths* are the absolute properties of the *matadhipatis*. In support of my contention, I will only quote Wallis, J., in 33. Mad., 265 :

Gifts made to heads of *maths* without any mention of the purposes to which they were to be applied cannot be considered to have been given upon trust for charitable purposes. Even if we were at liberty to resort to implication, it would be difficult to imply any trusts which could be regarded as valid charitable trusts.

"After quoting some other cases, the learned Judge goes on :

What is still more important, no attempt has been made to show that there is any usage that gifts made to *maths* should be applied exclusively to purposes which the law regards as charitable. If not, the conditions of a valid charitable trust are not made out and the effect of raising such trusts would be to bring the validity of gifts in question and if English principles apply, to render them invalid.

"Later on :

Further, in my opinion, where gifts were given to heads of *maths* without any specific trust, the inference suggested by the circumstances of the case and by usage is that it was not intended to fetter the donees by any trusts in dealing with the gifts or to make them accountable in a Court of Law for the manner of dealing with them. The ascetic character of the donees and the great reverence in which they were held would, I think, have rendered such restriction in the eye of the donors both unnecessary and unbecoming. The fact that the heads of *maths* have more or less frequently abused their position is not of itself a sufficient reason for treating them as trustees of the *math* endowments.

"Then, Sir, as regards the law on the point, though some confusion was created by the decision of their Lordships of the Privy Council in 43 Calcutta, yet the point has been set at rest by the

12 noon.

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Clause 2—cont.

decision in 44 Madras. The decision of Sir Sankaran Nayar in 33 Madras has been upheld. His decision was that the *matadhipatis* were neither trustees nor tenants for life, but they were owners of the properties which they held absolutely unfettered and which they might or might not spend for the benefit of the institution or the disciples and which they might even accumulate. That is the law on the point which has been upheld by their Lordships of the Privy Council so recently as 44 Madras. I therefore submit that the fundamental error consists in considering that the properties of the *matadhipati* are trust properties or that they are in any way subject to charge for the benefit of the disciples. To consider that the disciples have given properties under a so-called trust to the *matadhipati* shows downright ignorance on the part of those who are responsible for the framing of this Bill. The properties of the maths are merely offerings made absolutely out of free will and unconditionally. I submit, Sir, that to bring them within the purview of this Bill will amount to confiscation of private rights. I wish to ask the House whether they are competent to legislate regarding managers of Hindu families, for the impartible and inalienable properties of the zamindars and with reference to estates held by women. When no legislation could be contemplated for any of the above, I submit that the *maths* also should be excluded from the purview of this Bill."

Mr. P. SIVA RAO:—"Sir, I have also given notice of a similar amendment, and I therefore strongly protest against the inclusion of *maths* in this Bill. Sir, this is the most objectionable feature of the Bill and it has provoked widespread consternation and dissatisfaction in the Presidency. Not a day passes without memorial after memorial pouring in protesting against the inclusion of *maths* in this legislative measure. Sir, within the time allotted to me, I wish to put before the House only the most prominent objections against this provision in the Bill. For the first time in the annals of legislation it is proposed to define 'math' and 'religious endowment' so as to make even voluntary offerings of disciples like *gurupuja* or *pathapuja* given by disciples to the heads of the math accountable by the head of the math or the trustee of the religious endowment. I also submit, Sir, that for the first time a Board of Commissioners is created to control the actions of the *matadhipatis*.

"The law with reference to the properties in the hands of the *matadhipatis* is somewhat anomalous. Sometimes it is said they are liable to control by a Board; sometimes it is said that they are neither tenants nor trustees; and sometimes it is also said that the whole institution forms a sort of trust in the hands of the *matadhipatis* who have to exercise very wide administrative powers in respect to its properties. In the present state of law, the attempt on the part of the legislature to treat a *matadhipati* as an ordinary trustee is an anomaly of anomalies.

"Another objection against the inclusion of *maths* within the purview of the Bill is that these *matadhipatis* are venerable religious heads of institutions founded solely for the purpose of the propagation of religious knowledge and so forth. They are held in very high esteem and veneration throughout the land. We therefore ought to discourage any attempt on the part of the legislature to lower the dignity, the prestige or honour of the *matadhipati*.

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Clause 2—cont.

"Then, Sir, I have to point out to the House that, except in one or two instances, in no previous legislation has there been any proposal to bring these *maths* under control. In this connexion, I cannot do better than quote a few sentences from the report of Sir T. Muttuswami Ayyar. On page 85, elaborate reasons are given for the exclusion of *maths* from the purview of the Bill. It is said :

One way in which we have endeavoured to limit the scope and application of the proposed Act is by placing *matams* outside the field of its operations.

The reasons are very elaborate and I do not think I will be justified in taking the time of the House in reading at great length from the report.

"I wish to submit a few words before I close. Now, Sir, it is proposed to bring these *maths* under the control of the Board. In my opinion, nobody else is interested in the administration of the *maths* except the disciples or the members of the sect to which the institution belongs. My fear is that the Central Board may be composed of any kind of members. No doubt the Bill provides that the President should be a lawyer; but no qualification is prescribed for the other members. I would like to ask the hon. Minister for whose benefit this legislation is intended. Did the members of any particular sect move in the matter? Unless there was any such demand from some sect of the Hindu community, there would be no justification for a measure of this kind. My submission is that these *maths* should be administered according to the views of the members of the particular sect to which the *math* belongs. Is there any provision made in the Bill for the purpose of constituting the Central Board in such a way that members of particular communities might be represented in it? I submit, Sir, that there must be some kind of self-government or self-determination in the case of the administration of *maths*. In the absence of any such safeguards, I strongly protest against the inclusion of *maths* within the purview of the Bill."

MR. R. SRINIVASA AYYANGAR :—"Sir, as a disciple of the Ahobilam *math*, I feel it my duty to give my support to the amendment before the House. By that I should like to make it absolutely clear that I am not anxious for the exclusion of the Ahobilam *math* alone. I rise because I feel thoroughly satisfied that the inclusion of the *maths* of any description within the scope of the Bill is pernicious and mischievous. I do not think that the framers of the Bill have had any adequate conception of the power, position, prestige, influence and sanctity of the *matadhipatis*. Let it not be stated that we of the Reformed Council were parties to rush into fields where the old bureaucracy feared to tread. The old bureaucracy, whatever might have been its failings, was very scrupulous to respect our feelings and sentiments and even our religious susceptibilities. Let it not be said that in the twentieth century synchronizing with the new dispensation we are giving our assent to a measure which will have the effect of lacerating and wounding needlessly the feelings and susceptibilities of a large number of people of this province. I do not propose at this stage to take the House in detail over the halo of sanctity that hovers round these *matadhipatis*. Whatever view others who are less religiously minded may take, to me and to others who are of my way of thinking our religious *guru* is our God on earth. He is our religious preceptor. We prostrate before him and we look to him for our consolation in this world and salvation in the next. To subject such a spiritual head to

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Clause 2—cont.

a Central Board of Commissioners will not only destroy his influence but will impair his dignity and also considerably affect the spiritual influence which he is expected to exercise with respect to the propagation and promotion of spiritual knowledge and culture. I should like to ask whether there has been any demand from any quarter to include these *maths* within the purview of the Bill. It may be that some of these *matadhipatis* have not been behaving properly. Will that, I ask, be a sufficient justification to include all the *matadhipatis* within the scope of this Bill? I venture to submit with confidence that the remedy proposed is worse than even the disease. I do not know if hon. Members of this House are aware of the enactment passed by the Imperial Legislative Assembly entitled Act XIV of 1920 which is not at all referred to in the present Bill except in one particular wherein one provision has been copied for the purpose of tracing the different sources from which properties can be recovered. To meet the instances of recalcitrant trustees, adequate and ample provision is made in this Act XIV of 1920 to which no reference has been made unfortunately."

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU :—"I may mention for the information of the hon. Member that I was present when the Bill was passed in the Imperial Legislative Assembly. At that time, this question was raised, and it was decided that it was open to Provincial Legislative Councils to alter the law as they liked."

MR. R. SRINIVASA AYYANGAR :—"Sir, I only take the matter as it stands in the Preamble. We lawyers are aware of the fact that these Statutes are to be understood and interpreted according to their spirit and letter rather than in the light of the reports of Select Committees and the discussions that take place in the legislature which are not permissible.

"The Act says:

An Act to provide more effectual control over the administration of Charitable and Religious Trusts:

Whereas it is expedient to provide facilities for the obtaining of information regarding trusts created for public purposes of a charitable or religious nature and to enable the trustees of such trusts to obtain the directions of a court on certain matters . . .

Then comes Section 3, which, I submit, is quite sufficient to meet any case. This Section lays down:

Save as hereinafter provided in this Act, any persons having an interest in any express or constructive trust created or existing for a public purpose of a charitable or religious nature may apply by petition to the court within the local limits of whose jurisdiction any substantial part of the subject matter of the trust is situate to obtain an order embodying all or any of the following directions, namely:

(i) directing the trustee to furnish the petitioner through the court with particulars as to the nature and object of the trust, and of the value, condition, management and application of the subject matter of the trust, and of the income belonging thereto, or as to any of these matters, and

(ii) directing that the accounts of the trust shall be examined and audited.

"I therefore submit, Sir, that in the face of this provision it would be futile to bring the *matadhipatis* within the purview of the present Bill."

The hon. the RAJA OF PANAGAL :—"Sir, my hon. friend from Cuddapah said that some of the *matadhipatis* were very venerable. I do not for a moment deny the fact that some of them are venerable and deserve the highest respect. I wish to ask him what it is that we are doing. Are we

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[The Raja of Panagal]

Clause 2—cont.

showing them any disrespect? Not at all. What we propose to do is to see that the properties belonging to the maths are properly managed, regular accounts of income therefrom being maintained. I suppose there can possibly be no objection to such a proposal.

“My hon. friend, Dr. U. Rama Rao, said that in the previous attempts at legislation the *maths* were excluded. I may at once mention that that is not the case. In the Sullivan's Bill the definition of an institution is given thus :

‘Religious or charitable institution’ and ‘Institution’ include every Hindu pagoda, temple, shrine, *devasthanam*, *devasam*, *muttam*, *chatram*, choultry, or other Hindu establishment or foundation of a religious or charitable character, or both combined, by whatever local designation known.

“It was further stated that Sir T. Muttuswami Ayyar in his later Bill omitted the *maths* from the definition. The reason for that was that Sir T. Muttuswami Ayyar wanted to frame a Bill which was to be in accordance with the directions of the Government of India. In considering a previous Bill the Government of India observed that that Bill had too wide an application. Hence, Sir T. Muttuswami Ayyar had to limit the operation of the Bill to temples alone.

“It was further stated that the present Bill interfered with the spiritual activities of the heads of *maths*. I repudiate the statement. It is not the intention of the Government in framing this Bill to interfere with the spiritual activities of the heads of *maths*. On the other hand, Sir, it is in the interest of the *maths* themselves that this legislation has been taken up. The

12-15 p.m. legislation is intended to safeguard the proper management of math properties. In these circumstances, I am afraid I cannot accept the amendment. This question was considered at great length both by the Raja of Ramnad's Committee and also by the Select Committee in connexion with the present Bill. Both the committees decided not to exclude math from the operation of the Bill.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“Sir, I believe the House will recognize that so far as public feeling goes, nothing has stirred it so much as this proposal to include *maths* under the purview of this Bill. Whatever might be one's opinion as to the justice, or the propriety, or the wisdom of this volume of very strong feeling that has been roused, I think this House would be very ill-advised and would be acting in an altogether—if I may respectfully say so—unstatesmanlike manner if it ignored this volume of opinion against the inclusion of *maths* in this Bill. It cannot be stated, Sir, that the reasons which have induced those who oppose the inclusion of *maths* in this Bill are altogether frivolous in character. My hon. friend, the Raja of Panagal, pointed out to us that if in the later Bill for which Sir T. Muttuswami Ayyar was more responsible than for the earlier Bill, *maths* had been excluded, it was because of a mandate that those who were responsible for that Bill had received. As a matter of fact, it was due to nothing of that kind. If hon. Members would look at page 85 of the papers relating to this Bill that have been circulated to them, they would find that it was not that Sir T. Muttuswami Ayyar and his colleagues saw that, whatever their individual opinions might be, they were compelled by the order to which they owed their appointment to exclude *maths* from the Bill. On the other hand, they definitely say that while they recognize that in the

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Clause 2—cont.

earlier Bill these *maths* have been included, circumstances, which with them weighed powerfully, point to the wisdom and the necessity of the *maths* being excluded. They point out that it is not to be expected that secular interests like Committees—and, if you please, Boards—would treat these spiritual heads with that amount of respect and reverence which is their due; and they even go so far as to say this: if the spiritual head of a *matam* should be found guilty of malversation, it should be thought a grave abuse of power for any secular committee such as those to be appointed under the proposed Bill to remove them from office, as their continuance or removal depends upon the wishes of the votaries of the *matam* who are almost always disposed to overlook all shortcomings and lapses on the part of their *guru* or high-priest. Now, Sir, this was the language of that Committee in 1893; and the Robinson's Committee and Sullivan's Committee belong to the years 1877 and 1886. As the House will recognize, a good deal of water has flowed under the bridge subsequent to Sir T. Muttuswami Ayyar's Bill, and we have had a number of decisions of the courts and also of the Privy Council which has gone into the question of the exact position of the heads of *maths*.

“It is a mistake, as has been pointed out already by more than one hon. Member, to identify the heads of *maths* with the trustees of institutions, and I may point out for the information of the House that we have in the reported cases instances wherein heads of *maths* were recognized as not being trustees of a public, religious, or charitable trust, so that the provisions of Section 92 of the Civil Procedure Code which relate to the framing of schemes cannot be made applicable to them. I refer to a decision which is reported in 44 Madras, page 283, which is a decision of the Privy Council, wherein their Lordships have explicitly upheld a decision of the High Court which declared that the head of a *math* was not a trustee so as to come under the purview of Section 92. This, I point out, for the consideration of the House, only to lay emphasis upon the fact that you cannot say that by its inherent nature, a *math* will attract to itself all the consequences of a public trust. Now, if that be the case, and if the *maths* require special treatment, it appears to me, Sir, that it is not wise policy, particularly taking into consideration the feelings that you are likely to affect and the variety of the cases that will be influenced by this decision, to include *maths* as a class under the scope of this Bill.”

The hon. the RAJA OF PANAGAL:—“I have only one word to say, Sir. My hon. friend opposite from North Arcot referred to the report of Sir T. Muttuswami Ayyar and stated that the real reason why Sir T. Muttuswami Ayyar omitted the *maths* was not on account of any consideration for the mandate from the Government. Sir, I am reading from the same report, page 83, where Sir T. Muttuswami Ayyar stated:

In their letter No. 472, dated 23rd February 1888, the Government of India observed that the Bill was too wide in its application, and as such, the introduction of a measure with a limited scope”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—“I do not deny that, Sir, but what I do say is this—and that is borne out by paragraph 7 of that report—that in excluding the *matam* from the Bill, the Committee was itself satisfied that it was a wise exclusion.”

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Clause 2—cont.

The hon. the RAJA OF PANAGAL :—" Well, Sir, I have only to say that the Government of India compelled them to take that view."

Rao Sahib U. RAMA RAO :—" I have nothing more to say, Sir. I press my motion."

The amendment was put and lost.

On the motion of Rao Sahib U. Rama Rao a poll was taken and the House divided as follows :—

Ayes.

- | | |
|--|---|
| 1. Mr. K. Adinarayana Reddi. | 7. Mr. C. V. Venkataramana Ayyangar. |
| 2. Diwan Bahadur K. Suryanarayanamurti Nayudu. | 8. Rai Bahadur T. M. Narasimhaiah. |
| 3. " M. Ramachandra Rao Pantulu. | 9. Rao Sahib U. Rama Rao. |
| 4. " L. A. Govindaraghava Ayyar. | 10. Diwan Bahadur D. Seshagiri Rao Pantulu. |
| 5. Rao Bahadur A. S. Krishna Rao Pantulu. | 11. Mr. R. Srinivasa Ayyangar. |
| 6. Mr. P. Siva Rao. | 12. " K. Prabhakaran Tampam. |
| | 13. Diwan Bahadur Govindas Chathurbajadoss. |
| | 14. Rao Bahadur T. Namberumal Chettiyar. |

Noes.

- | | |
|---|--|
| 1. The hon. Sir Charles Todhunter. | 26. Mr. M. Narayanaswami Reddi. |
| 2. " the Raja of Panagal. | 27. Rao Bahadur C. Natesa Mudaliyar. |
| 3. " Rai Bahadur K. Venkatarreddi Nayudu. | 28. Mr. V. P. Pakkiriswami Pillai. |
| 4. " Rao Bahadur A. P. Patro. | 29. " P. T. Rajan. |
| 5. Mr. E. S. Lloyd. | 30. " W. P. A. Soundara Pandiya Nadar. |
| 6. " A. Y. G. Campbell. | 31. " R. K. Shanmukham Chettiyar. |
| 7. Rai Bahadur N. Gopalaswami Ayyangar. | 32. " K. Sitarama Reddi. |
| 8. Mr. C. Madhavan Nayar. | 33. " T. Somasundara Mudaliyar. |
| 9. Diwan Bahadur T. N. Sivagnanam Pillai. | 34. " S. Somasundaram Pillai. |
| 10. Mr. E. Periyannayagam. | 35. " P. Subbarayan. |
| 11. Rao Sahib T. C. Tangavelu Pillai. | 36. " V. G. Vellingiri Goundar. |
| 12. Mr. A. Ramaswami Mudaliyar. | 37. " C. Venkataranga Reddi. |
| 13. Rao Bahadur L. A. Kamalinga Chettiyar. | 38. Diwan Bahadur P. Kesava Pillai. |
| 14. Mr. S. T. Shanmukham Pillai. | 39. Rao Bahadur C. V. S. Narasimha Raju. |
| 15. Diwan Bahadur S. Rm. M. Ct. Pethachi Chettiyar. | 40. Diwan Bahadur R. Venkataratnam Nayudu. |
| 16. " C. Arunachala Mudaliyar. | 41. Mr. S. Muttum-nikkachari. |
| 17. Rao Bahadur P. C. Etirajulu Nayudu. | 42. " A. T. Palmer. |
| 18. Diwan Bahadur Sir P. Tyagaraya Chettiyar. | 43. " T. Sivasankaram Pillai. |
| 19. " M. Krishnan Nayar. | 44. Abbas Ali Khan Bahadur. |
| 20. Mr. W. Vijayaraghava Mudaliyar. | 45. Muhammad Abdur Rahim Khan Sahib. |
| 21. Rao Bahadur K. Gopalakrishnayya. | 46. Khan Bahadur Muhammad Usman Sahib Bahadur. |
| 22. Mr. J. Kuppuswami. | 47. Mr. G. Vandanam. |
| 23. " B. Muniswami Nayudu. | 48. Rao Sahib P. Venkatarangayya. |
| 24. " P. C. Muttu Chettiyar. | 49. " Sir M. C. T. Muttayya Chettiyar. |
| 25. " A. T. Muttukumaraswami Chettiyar. | |

Fourteen voted for and 49 against; the motion was lost.

(Amendment No. 9.)

Rao Sahib U. RAMA RAO :—" I beg to move the following amendment :—

After the words 'other than' insert the words 'maths in South Kanara and'.

The unique nature and constitution of the *maths* in South Kanara, especially the *Ashta maths* of Udipi, necessitate a special consideration of their case. To include them hastily without adequate consideration in the Bill

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Clause 2—cont.

and allow them to be controlled by a Board which is quite alien from the view-point of the disciples concerned, will not only be injurious to their interests and their further development, but may bring about their destruction. Therefore, before submitting them for the first time in history to the control of the Government-appointed Board of Commissioners, it is necessary that we should consider how they are managed now, what the object of the original founder, Sri Madhwacharya, was in laying down a constitution for them, how it has worked during these several centuries, and whether the proposed legislation would improve them or make their position worse.

“The founder of Madhwa Philosophy, Sri Madhwacharya, installed the idol of Sri Krishna at Udipi to preach the practical and ethical side of his philosophy and ordained eight bachelor *sanyasi sishyas* to worship the idol and manage the institution. Sri Krishna Math where this idol is installed is the centre of the institution and the eight sanyasis have their own individual *maths* or residences with some property attached to them. They manage the central institution by turns of two years,—*Pariyaya*, as they are called. Thus, each *swamiyar* gets 14 years of respite before he gets his turn of management and worship. It is only those who are in touch with these *maths* that know with what religious fervour each *swamiyar* waits his turn of worshipping Lord Krishna, with what an amount of care, diligence and zeal he accumulates funds and provisions to celebrate his *Pariyaya* of two years, and what an amount of keen competition there is amongst the eight *swamiyars* to make his own *Pariyaya* a great success. But for this individual and personal interest they take, it would be impossible to meet the expenses of their *Pariyaya* from the income of their individual *math*, or the Krishna Math. In addition to the ceremonies and festivals and the feeding of the devotees that flock to the place, a Sanskrit college, which has more than two hundred students and which has been found by the University authorities to be one of the best Sanskrit institutions in the presidency, is maintained by these *maths* and all the students are given not only free teaching, but free boarding by the *Pariyaya* Swami.

“With the little income they have, it is impossible to meet all these expenses. In fact every individual who knows something of these *maths* knows that they run into large debts when they finish their turn of management of Krishna Math. Then during the 14 years which they have before the next turn, they liquidate these debts by touring all over the country and receiving *kanikas*, and also try to accumulate something for the next *Pariyaya*.

“Not only this, these eight *maths* are divided into what are called ‘Dwanduva Maths’, that is, two of them are paired together, and in times of need or when one of the *swamiyars* is a minor, the *swamiyar* of its Dwanduva Maths is to support the other. Over and above all these, the eight *swamiyars* form a committee of general superintendence. Their power has been recognized by our High Court when this body of the eight *swamiyars* dismissed one of their own *swamiyars* for misconduct and the matter came before the Court. Thus there is the minimum chance for any mismanagement of these *maths*. The original founder of this religion of Madhwas, has with great foresight given a democratic constitution for his ordained *sishyas*, and at the same time retained that individual interest, for each *swamiyar* without which no institution can really flourish.

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Clause 2—cont.

“ Thus the nature and the constitution of the Udipi *maths* are altogether different from those of other *maths*. The final authority is not vested in one individual as in the case of other *maths*; it is vested in a committee of eight *swamiyars* of the same religion and faith, of equal position and of common interest. The central institution is managed by turns; but for the personal efforts of the individual *swamiyar*, helped by the Dwanduva *math*, it would be impossible for a *swamiyar* to celebrate his Pariyayam. This system of management by turns supplemented by the general superintendence of eight religious heads gives scope both for personal zeal and competition amongst themselves, while at the same time mismanagement is made almost impossible, as the eight *swamiyars*, in a body, do not go against the interests of their religion and their institution. No other *math*, so far as I am aware, has a constitution of such a peculiar nature. If the personal interest of each *swamiyar* and his pride for his institution is removed, the fate of these poor *maths* is sealed—poor, because their income is quite inadequate to meet the expenses of Pariyaya, ranging between 2 and 3 lakhs. If the immemorial general superintending power of these eight *swamiyars* is supplemented by that of the Board of Commissioners, the entire object of the original founder is put an end to.

“ Therefore, to subject such an institution, which has worked so well for several centuries, to the control of a body of Government nominees, is tantamount to ruining them. The *swamiyar* loses all his personal interest in the celebration of the Pariyaya; the body of the eight *swamiyars* loses its superintending power over the *math*, and the consequence will be that the Pariyayam will not be conducted with as much enthusiasm and zeal as it is done now. If a committee of eight holy men, who have given up all worldly connexions and devoted all their life to the service of Lord Krishna, are not fitted to superintend these *maths*, it is hard to conceive who else would do it better. The proposed Board is surely inferior to them. Firstly, considered from the standpoint of the disciples concerned, it is an alien body which may be composed even of persons who are inimical to the faiths and ceremonials of these institutions. Unless hon. Members of this House intend ruining these institutions—I am sure, they do not intend it—they will not consent to such a proposal.

“ But above all, who are the persons that are vitally interested in these institutions? It is not the general public, not the hon. Minister in charge of the Bill, nor any individual inside or outside the House who is not a Madhwa-disciple of these *maths*. It is these *swamiyars* and their disciples, and they only, are the persons that are interested in these institutions, which are as good as the private property of the *swamiyars* and their disciples. Nobody else can or should have any right to interfere in their affairs. If that be so, have the *swamiyars* or their disciples sought any protection from the hon. Minister of this Council? This is a vital question. We ought to consider it. If the individuals who are interested in these institutions persist in this piece of legislation, it will be nothing else than oppressing an unfortunate minority in their religious affairs. In this connexion, I would like to draw the attention of the House to the numerous protests that have come from South Kanara from all persons interested. The most responsible persons in the district have submitted a monster petition to this Council to exclude their *maths* from the scope of this Bill.

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Clause 2—cont.

“Under these circumstances, when persons who are vitally interested in the *maths* have not sought for any legislative measure, but have vehemently protested against their inclusion in the Bill, when the peculiar constitution of the *maths* are better suited to their welfare than any proposed control, when this constitution was laid down with great foresight by their founder, and when we find it has worked well for centuries without giving cause for complaint,—it is but mere justice and fair play that they should be excluded from the purview of this Bill. With these words I recommend this amendment to the House.”

The hon. the RAJA OF PANAGAL :—“The question of excluding individual institutions or particular areas from the operation of the Bill was considered at great length by the Select Committee, and the Select Committee came to the conclusion that such exclusion was not desirable. Now, Sir, my hon. friend, Mr. U. Rama Rao, seeks to make out a case that in the case of a particular institution such exclusion is desirable. Sir, I do not think that the question whether in a particular instance the *math* deserves or does not deserve to be excluded, can be taken up by this Council. But, as I said already, when we take up the amendment of Mr. Venkataramana Ayyangar we shall consider whether power can be taken to the Board or to the Government to exclude certain institutions on the merits of individual cases” (‘hear, hear’ from Mr. Sivasankaram Pillai).

Rao Sahib U. RAMA RAO :—“With that assurance, Sir, I withdraw my amendment.”

The hon. the RAJA OF PANAGAL :—“The only assurance is that individual cases will be considered on their merits.”

Rao Sahib U. RAMA RAO :—“If the hon. the Minister does not give an assurance, I will ask for a division.”

The hon. the PRESIDENT :—“Of course, the assurance, if any, of the Minister is contained in the words he has uttered. He cannot take back those words now. The hon. Member had better make up his mind to ask for a division or not.”

Rao Sahib U. RAMA RAO :—“I do not ask for a division.”

The motion was by leave withdrawn.

(Amendment No. 10.)

Rao Sahib U. RAMA RAO :—“Sir, I formally move the amendment that stands in my name, viz.—

After the words ‘other than’ insert the words ‘the eight “Ashta” maths of Udipi in South Kanara, and’.”

The hon. the RAJA OF PANAGAL :—“I formally oppose it.”

The hon. the PRESIDENT :—“Does the hon. Member formally withdraw it?”

Rao Sahib U. RAMA RAO :—“Yes, Sir, I formally withdraw it.”

The motion was by leave withdrawn.

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Clause 2—cont.

(Amendment No. 11.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"I beg to move—
Add the following proviso at the end of Sub-Clause (1):—

'Provided that the Local Government may at any time reserve any Hindu Religious Endowment from the operation of this Act.'

"Sir, as the time at our disposal is very short and since some hope has been given by the hon. the Minister in charge of this Bill, I do not want to say much. However, I would take the liberty of saying one or two words. So far as this House is concerned, evidently the whole thing depends upon the hon. the Minister. We have practically surrendered our powers of discretion into his hands and it is therefore desirable that I should appeal to his good sense. From what he has said there seems to be a doubt as to whether the power of exclusion should be given to the Government or to the Board. When I heard the first part of the hon. the Minister's speech, I thought that he had made up his mind that the Board should have this power, and I was very much disappointed; but when I heard his concluding words, it was clear to me that he was only considering the question as to whether the Board or the Government should have this power. Now, if I say a few words, it is to request the hon. the Minister to vest this power in the Government. I am not at all particular as to the wording of my amendment. Any word may be taken away and any word may be put in or altered. What I say is, this power should not be placed in the Board alone. The Government may consult the Board.

"Under the provisions in the Bill there may be a number of Boards constituted throughout the Presidency although at present it is contemplated to constitute only one Board. If the power to exempt particular endowments from the operation of this Act is given to the Board so far as religious matters are concerned, people will always be ready to dispute the decision of the Board which will lead to a multiplicity of boards throughout the Presidency, and it would be necessary, at no distant date, to have a Board for two or three districts. If that is so, it is impossible for us to expect the Boards to be free from the bias of the local population. It is therefore necessary that the power of exempting any endowment from the operation of this Act should not be given to the Board.

"There is another thing also to be said. Whatever may be said about the present Government, there is no doubt whatever that the transferred portion of it is expected to be responsible. In this House we move various motions and resolutions questioning the correctness of the action of Government and various other things. If power is given to the Board, there will be no power to this House or anybody else to question the action of the Board. Therefore, this power may be given to the Government, if necessary under some restrictions, as for instance after taking the sense of this House or after consulting the Board. I am of opinion that this extraordinary power of exempting particular endowments from the operation of this Act should be in the hands of the Government. It is with this object in view that I appeal to the hon. the Minister to accept my amendment."

The hon. the RAJA OF PANAGAL:—"I have carefully considered the amendment of my hon. friend, Mr. Venkataramana Ayyangar. I am

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Clause 2—cont.

not against the object of the amendment. I have no objection to accept it if it is worded—

‘Provided that the Board may, with the sanction of the Local Government, exempt any such endowment from the operation of all or any of the provisions of this Act.’

“Sir, it is better that at the first instance the Board is given the power to recommend the case. Then it would be open to the Government to accept the recommendation or not. In that case there would be two checks: firstly, the Board will have to make up its mind to recommend a particular instance, and, secondly, that recommendation will have to be approved by the Government. So, if my hon. friend withdraws his amendment, I will move this amendment.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“Sir, I will just say a word. The objection that I mentioned has not been taken away, that is to say, the final power is given to the Board. Since the Board will be receiving from every endowment $1\frac{1}{2}$ per cent of its income, it will not view with favour the exemption of any endowment and will not be willing to exempt particular endowments from the operation of this Act. I therefore suggest that the Government should have this power to exempt after consulting the Board. It comes to the same thing. Whereas under the hon. the Minister's definition the Board may, with the sanction of the Government, do it, what I say is that the Government must have full power and that it may use this power in consultation with the Board. If it is entirely left to the Board, owing to the bias of the Board and its personal feeling for a particular district, it may not be willing to sacrifice its income. I therefore appeal to the hon. the Minister just to reverse his amendment, viz., the Board may be consulted and the Government may have full power.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“I beg to oppose the amendment of the hon. the Raja of Panagal for the obvious reason that I am against the constitution of the Board and against the retention of the Board as an authority. I oppose my hon. friend's introduction of the words ‘the Board may’. If I accept that position, it means that I am accepting the position ascribed to the Board under this definition. The question whether the Board should be the controlling authority of these religious institutions comes up for discussion at a later stage. Therefore by the introduction of these words and by asking the House to accept these words, it would be really asking the House to commit itself to the constitution of the Board as defined in this Bill. I object to this amendment for this very obvious reason.

“Apart from that, I should like to make one or two observations on the general question raised by my hon. friend, Mr. Venkataramana Ayyangar's amendment, which I support. There are, as hon. Members are aware, large tracts of country where, under the Act of 1820, no committees have been constituted. For example, in the Northern Circars there is not a single committee, and I believe it is so also in the Ceded Districts. Therefore, it seems to me, in regard to the operation of this Bill and in regard to its usefulness, there are questions as to whether this Bill should be applied to areas where mismanagement of these religious endowments has not been felt. I

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Clause 2—cont.

submit that the power of exempting large areas and institutions should rest with the Government rather than with a Board such as that constituted here.

“ I venture to think that this legislation has been undertaken somewhat
12-45 p.m. in the dark. If hon. Members look into what exactly happened in regard to the legislation that was passed in England with reference to Charity Commissioners, they will find that four or five Royal Commissions were appointed before that legislation was passed and they collected all the materials with reference to the state of administration of all the charitable endowments throughout the country. In fact, they collected voluminous records extending over 32 volumes, and these formed the basis of information to the Members of the House of Commons who had to deal with the question of reforming all the religious institutions there. What is it that we are doing in this case? There is absolutely no information as to the state of things in any part of the country. In these circumstances, we cannot help coming before the House with this amendment, namely, that powers should be reserved with the Government to exempt portions of the Presidency where such committees have already been constituted and where *maths* have not been mismanaged. My hon. friend wants to delegate this power to the Board, and not to the Government. The last point I would urge upon the attention of the House is, that the hon. the Minister or whoever will be administering these committees, should be made amenable to the decision of this House. That is the last argument which I would urge against this Board. After all, my hon. friend is ready to leave the initiative to the Board, the very existence of which is not still admitted and whose success is problematical, and we know we can certainly deal with this question much more effectively if we leave this matter in the hands of the Government. Therefore it is entirely left to my hon. friend to make up his mind as to whether he will delegate this power to the Board or to the Government.”

The hon. the RAJA OF PANAGAL :—“ Sir, practically there is little difference between my amendment and that of my hon. friend's. In either case the ultimate authority is the Government. The reason why I want that the initiative should be taken by the Board is that the Board is in touch with the management of institutions, and that therefore they would be in a position to know whether any particular institution deserves to be excluded or not. It is on that account that I prefer the recommendation to come from the Board. If my hon. friends are very particular that the initiative should be taken by the Government, I shall, with your permission, Sir, alter the amendment.”

The hon. the PRESIDENT :—“ Let the hon. the Raja of Panagal withdraw his amendment.”

The amendment of the Raja of Panagal was by leave withdrawn.

The hon. the RAJA OF PANAGAL :—“ Sir, then, I beg to move my amendment to the amendment under consideration. It reads :

That the Local Government may, after consulting the Board, exempt any such endowment from the operation of all or any of the provisions of this Act or vary, alter, or cancel such exemption.”

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Clause 2—cont.

Rao Bahadur C. V. S. NARASIMHA RAJU:—"I want to urge the desirability of having some more power vested in the Local Government to vary or alter such notification."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I have some objections even to this new amendment moved by my hon. friend. After all, my hon. friend wants to consult somebody. He can certainly consult without mentioning the same in the Statute."

The hon. the RAJA OF PANAGAL:—"Does the hon. Member mean that the Minister without consulting the Board should exclude a particular institution or an endowment?"

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU:—"It is not necessary that Government should have that power."

Mr. C. V. VENKATARAMANA AYYANGAR:—"I accept the amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I should like to know whether I would be in order in moving for the deletion of the word 'Board' because there is another amendment standing in my name."

The hon. the PRESIDENT:—"Yes, the hon. Member may move it."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I beg to move—
that the words 'after consulting the Board' be deleted from this amended clause.

My main reason for making this amendment at this stage is to indicate to the Council that several hon. Members and I who have given notices of amendments against the retention of the word 'Board' in this Bill are desirous that the question relating to the constitution, the powers, and the necessity for the central authority such as is proposed to be constituted under this Bill should be brought under the consideration of this House. Sir, this question of the creation of a Board was considered at some length in the Select Committee and I differed from those of my colleagues who thought that the best way of administering the religious institutions was by the constitution of this Board. I had explained at some length my reasons for the opinion that I hold, namely, that the constitution of a Central Board such as the Board of Charity Commissioners is not the best way of managing our religious institutions. Sir, a good deal has been said about the Charity Commissioners during the course of the discussion on the previous occasion as well as in the Select Committee. I should at the outset point out that the constitution of Charity Commissioners in England was preceded, as I said, by a most comprehensive enquiry into the administration of charitable trusts. Four Royal Commissions were appointed, and the information regarding the administration of all the religious institutions was made available to those who were responsible for that legislation which ultimately culminated in the Charitable Trusts Act of 1893, and which Act was subsequently amended by a number of other Acts. Essentially, the difference between the Board, as constituted under the English Act and that, as constituted under the present Bill, is that in the former the judicial powers of the Court were not taken away and that in the case of endowments whose annual income exceeded £50 the Board was merely a court of concurrent jurisdiction exercising its judicial functions.

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Clause 2—cont.

At the same time I may say its powers of jurisdiction could be taken with the consent of parties. That is the chief difference between the Board as constituted under the English Act and that which is sought to be created here, namely, a body which is partly administrative and partly judicial, exercising judicial functions to the exclusion of the civil courts. I believe the best way of dealing with this question would be to introduce administrative functions, as far as possible, in the district committees and to strengthen the local control; the rest of the judicial functions should be discharged by the principal court of original jurisdiction in the districts. That was the line on which Justice Sir T. Muttuswami Ayyar proceeded in the draft report that he prepared.

"I may venture to think that the central authority, such as is proposed to be constituted, apart from its constitution and the powers which it is going to possess, is merely going to deal with the general question; for, I take it, that the various questions relating to the exact composition of the Board and the pay of its officials will come up under other amendments at a later stage. I think that a central authority like this will destroy the usefulness of local committees; for, it will be noticed, that in the Bill, as amended by the Select Committee, it is sought to give powers of general superintendence over all religious institutions in this Presidency. This, I have no doubt, will be greatly detrimental to the efficiency of local control. I submit that there are two methods of administration, namely, administration by a Central Board supervising the local committees, and administration by strong local committees performing merely administrative duties, the judicial duties assigned to the Central Board being performed by the principal court with original jurisdiction. I have no hesitation in saying that the latter method is the best. This is the main reason why I am opposed to the constitution of the Central Board.

"Hon. Members will see that the Bill, as originally introduced, did not contain any provision for the constitution of a central authority. That was advisedly omitted and the Bill proceeded on the basis of district committees subject to the general jurisdiction of the courts. I have not heard anything either in the Select Committee or here as to why that principle of the original Bill was departed from. Another reason why I am against the constitution of this Board is that the machinery of the central authority will be more costly than is justified by the circumstances. I have also adverted to that fact in my note and I think on all grounds considered together this Board ought not to be one of the controlling authority."

The hon. the PRESIDENT :—"The situation is a little more difficult than I imagined. Of course, the hon. Member is entitled to discuss the whole question of the central authority in this place; because this is the first place where there is a reference to that authority. At the same time I take it that the question of the Board will be dealt with more fully and more appropriately later on. It is a matter for consideration whether the hon. Member will not do well to withdraw his amendment at this stage, on the understanding that if the House rejects the Central Board at a later stage, he will ask for special leave to re-open this clause and have these words put in."

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Clause 2—cont.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"It is exactly to obtain that ruling, Sir, that I made the statement at the beginning."

The hon. the PRESIDENT :—"Even if the hon. Member does not do it, the Government when they frame the consequential amendments are bound to omit the words relating to the Boards. That being so, I hope the hon. Member will withdraw his amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Certainly, Sir."

The motion was by leave withdrawn.

The amendment of Mr. Venkataramana Ayyangar as amended by the hon. the Raja of Panagal was then put and carried. The provision was then inserted.

(Amendment No. 12.)

New Sub-Clause after Sub-Clause (1).

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I move (a) for the insertion of the following as Sub-Clause (2) :—

(2) *This Act shall come into force on such dates within such local areas to such extent and in respect of such religious endowments as the Local Government may, by notification, direct.*

(b) *Re-number the subsequent sub-clauses.*

"It is quite clear that before the introduction of this Bill there has not been that comprehensive and full enquiry regarding the various religious endowments in this Presidency and regarding the question of mismanagement thereof to justify this Bill being made applicable to all religious endowments whether *maths* or temples throughout the Presidency. All that we know is that from the year 1817 various legislative measures have been brought forward for the purpose of checking some of the abuses which have come to the notice of the public regarding the various religious endowments. But, Sir, to come to the conclusion that because there are cases of mismanagement in the case of some temples we should make the Act generally applicable at once throughout the Presidency is, I submit, quite unreasonable and unjust. The amendment which has just been accepted by the House—apart from the reference to the Board which depends upon the final decision of this House—is that though the Act may be made generally applicable, the Local Government will reserve the power to exempt particular endowments from time to time. My amendment, if accepted, will necessitate the Government making some preliminary enquiry. The exclusion of *maths* is altogether out of consideration. The hon. the Minister told us that it was not a question to be gone into separately, and that it was a matter for the consideration of the Board. He incidentally suggested that though the provisions might be made applicable to all institutions at once, the power to exempt them which was to be reserved to the Government would satisfy all the requirements of the case. But if this House is satisfied that we have not got any history prepared about these religious institutions as were made before the Charitable Trusts Act, 1853, was passed, is it not reasonable that we should pass the clause stating that this Bill shall come into force on such dates and within such local areas as the Local Government may by notification direct? I think, Sir, that we shall be doing justice to the various

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Clause 2—cont.

representations that we have received and to the various charities, to which the misapplication of the provisions of this Bill is likely to cause trouble. The Local Government are not hampered in any way in discharging their duty of placing these institutions on a satisfactory footing. It will only necessitate their making a close enquiry and then issuing notifications from time to time as to what institutions the provisions of this Act should be applied."

The hon. the RAJA OF PANAGAL:—"Mr. President, my hon. friend from Nellore has based his arguments for accepting this amendment mainly on the ground that there has not been an exhaustive enquiry into the history of the religious institutions. Sir, ever since 1870, when the late hon. Rama Ayyangar moved in the matter, the question has been seriously engaging the attention of the thinking section of the Hindu community of the Presidency. Sir, my hon. friend's case becomes weaker especially after the acceptance of the previous amendment. If, as a matter of fact, there is an institution which deserves exclusion from the operation of the Bill, it will be open to the Government after consultation with the Board to exclude such institution from the operation of any or all of the provisions of the Bill."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I only wish to add that the arguments advanced by the hon. the Minister with reference to the papers placed in our hands are not convincing. I have carefully gone through the papers placed in our hands. No doubt they refer generally to some of the abuses relating to the religious endowments; but they do not indicate that there was at any time any exhaustive enquiry relating to these provisions separately."

The hon. the RAJA OF PANAGAL:—"May I say that these reports were the results of elaborate enquiries?"

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"I can only speak from the information supplied to us. So far as this information goes, we have no evidence of the enquiry made. Unless the hon. Member places before us some record to show that there has been an exhaustive enquiry, I do not think we can accept his argument. For these reasons I press the amendment."

The motion was put and lost.

Sub-clause (2).

(Amendment No. 13.)

Mr. R. SRINIVASA AYYANGAR:—"Mr. President, the amendment standing against my name runs as follows:—

After the words 'Government may' insert the words 'with the approval by resolution of the Legislative Council'.

"Sub-Clause (1) of Clause 2 exempts from the operation of this Bill all Jain religious endowments. We all believe that for very valid reasons on the part of the framers of this Bill the Jain religious endowments have been exempted from the operation of the Bill. Brahmoism *plus* Brahminism is Jainism. While they do adopt some portion of the Hindu law and while they are also of Hindu origin, they do not go to the full length of Hindu law with respect to various matters of detail. Owing to their customs,

[Mr. R. Srinivasa Ayyangar]

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Clause 2—cont.

their habits and their susceptibilities, the Minister appears to be kind enough to exclude the Jain religious endowments from the scope of the Bill. In other words not only has an exemption been made in their case but a privilege has been conferred upon the Jains. In Sub-Clause (2) the Local Government wants to take power by notification to remove the exemption and thereby extend the Bill to the Jain religious endowments as well. I seek by my amendment to take away the executive authority which the Local Government wants for the purpose of removing this exemption from a large body of Jains and I desire that before the Local Government resorts to the extreme step of removing this exemption or privilege it will be much better that it has before it the considered opinion of the Legislative Council. The reason is not far to seek. You allow to a certain body of individuals or a certain class of persons the privilege of escaping from the provisions of the Bill. When you think of withdrawing this benefit or privilege and of bringing them within the purview of this Bill, reason, prudence and justice demand that this power of inclusion should not be exercised by the executive Government automatically and without the benefit of the opinion of the Legislative Council. I seriously appeal to the Minister to withdraw this power of the Government."

The hon. the RAJA OF PANAGAL :—"I have already stated, Sir, in reply to the debate on the amendment of my hon. friend, Mr. Rama Rao, that it is neither reasonable nor expedient to exempt religious institutions individually."

Mr. R. SRINIVASA AYYANGAR :—"In the case of Jain institutions, they were already excluded. In the case of South Kanara it was not so."

The hon. the RAJA OF PANAGAL :—"In any case I do not think it is desirable to exclude at this stage any particular institution from the operation of the Bill. As I have already stated a general power is taken by the Government and when applications for exemption come before the Government they will be considered on their merits. It is not possible to accept the amendment."

Mr. R. SRINIVASA AYYANGAR :—"I fear I have not been correctly understood. My amendment is of a totally different character from that of Mr. Rama Rao who wanted to take away from the Bill certain classes which have been included in the provisions. Udipi (South Kanara) and Malabar have been included in the provisions of the Bill. The ministerial reply may aptly apply to them. My amendment deals however with a converse case, to wit, Jain institutions which are expressly excluded from the Bill and for the inclusion of which hereafter the power of removing the exemption is taken by the Local Government. The distinction between these two classes of cases is marked and it is necessary to treat them differently. Therefore I am not at all convinced by the arguments advanced by the hon. the Minister. Far from supporting his contention they strengthen my position. In this case by reason of the special exemption conferred on the Jain institutions, they ought to be considered from a totally different standpoint."

The motion was put and lost.

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Clause 2—cont.

1-15 p.m.

A poll was demanded and the House divided as follows:—

Ayes.

- | | |
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| 1. Diwan Bahadur M. Ramachandra Rao Pantulu. | 7. Rai Bahadur T. M. Narasimbacharlu. |
| 2. „ „ L. A. Govindaraghava Ayyar. | 8. Rao Sahib U. Rama Rao. |
| 3. Rao Bahadur A. S. Krishna Rao Pantulu. | 9. Diwan Bahadur D. Seshagiri Rao Pantulu. |
| 4. Mr. P. Siva Rao. | 10. Mr. R. Srinivasa Ayyangar. |
| 5. „ C. V. Venkataramana Ayyangar. | 11. „ A. Ranganatha Mudaliyar. |
| 6. „ M. Suryanarayana. | 12. Rao Bahadur T. Namburumal Chettiyar. |

Noes.

- | | |
|--|--|
| 1. The hon. Sir Charles Todhunter. | 28. Rao Bahadur K. Gopalakrishnayya. |
| 2. „ Khan Bahadur Muhammad Habib-
ul-lah Sahib Bahadur. | 29. Mr. J. Kuppuswami. |
| 3. „ the Raja of Panagal. | 30. „ B. Muniswami Nayudu. |
| 4. „ Rai Bahadur K. Venkatarreddi
Nayudu. | 31. „ A. T. Muttukumaraswami Chettiyar. |
| 5. „ Rao Bahadur A. P. Patro. | 32. „ M. Narayanaswami Reddi. |
| 6. „ Mr. A. R. Knapp. | 33. Rao Bahadur C. Natesa Mudaliyar. |
| 7. „ „ C. P. Ramaswami Ayyar. | 34. Mr. V. P. Pakkiriswami Pillai. |
| 8. Mr. E. S. Lloyd. | 35. „ P. T. Rajan. |
| 9. „ A. Y. G. Campbell. | 36. „ W. P. A. Saundarapandya Nadar. |
| 10. Rai Bahadur N. Gopalaswami Ayyangar. | 37. „ R. K. Shanmukham Chettiyar. |
| 11. Mr. C. Madhavan Nayar. | 38. „ K. Sitarama Reddi. |
| 12. Diwan Bahadur T. N. Sivagnanam Pillai. | 39. „ T. Somasundaram Mudaliyar. |
| 13. Mr. E. F. Thomas. | 40. „ S. Somasundaram Pillai. |
| 14. „ E. Periyannayagam. | 41. „ P. Subbarayan. |
| 15. Rao Sahib T. C. Tangavelu Pillai. | 42. Diwan Bahadur K. Suryanarayanamurti
Nayudu. |
| 16. Mr. A. Ramaswami Mudaliyar. | 43. Mr. V. C. Vellingiri Goundar. |
| 17. Rao Bahadur T. A. Ramalinga Chettiyar. | 44. Rao Bahadur C. Venkataranga Reddi. |
| 18. Diwan Bahadur S. Bm. M. Ct. Pethachi
Chettiyar. | 45. Mr. S. Muttumanikkachari. |
| 19. S. R. Y. Ankinetu Prasad Bahadur. | 46. The Raja of Ramnad. |
| 20. Mr. M. Appalanarasayya Nayudu. | 47. Abbas Ali Khan Bahadur. |
| 21. Diwan Bahadur C. Arunachala Mudaliyar. | 48. Hamid Sultan Marakkayar. |
| 22. Rao Bahadur P. C. Ethirajula Nayudu. | 49. Muhammad Abdur Rahim Khan Sahib. |
| 23. Sir P. Tyagaraya Chettiyar. | 50. Khan Sahib Munshi Muhammad Abdur-
Rahman Sahib. |
| 24. Diwan Bahadur M. Krishnan Nayar. | 51. Khan Bahadur Muhammad Sadulla
Badsha Sahib. |
| 25. Mr. C. Ramalinga Reddi. | 52. Mr. Haji Abdulla Sahib. |
| 26. Rao Bahadur O. Tanikachala Chettiyar. | 53. Khan Bahadur Muhammad Usman Sahib. |
| 27. Mr. W. Vijayaraghava Mudaliyar. | 54. Rao Sahib P. Venkatarangayya. |

Twelve having voted *for* and 54 *against*, the amendment was declared lost.

(Amendment No. 14.)

Rai Bahadur T. M. NARASIMHACHARLU :—“ Mr. President, Sir, I beg to move—

Insert the words ‘to any math, if so desired by a majority of the disciples of the math or’ between the words ‘extend’ and ‘to Jain.’

“ It will be seen, Sir, that if this amendment is accepted, the Sub-Clause will read thus :

The Local Government may, by notification, extend to any math, if so desired by a majority of the disciples of the math, or to Jain religious endowments the provisions of this Act. and so on.”

Mr. A. RAMASWAMI MUDALIYAR :—“ I rise to a point of order, Sir. I do not think that Mr. Narasimbacharlu's amendment is in order. We

[Mr. A. Ramaswami Mudaliyar] [26th March 1923]

Clause 2—cont.

had a discussion just now under Sub-Clause (1) of Clause (2) as to whether *maths* should be included or excluded. This Sub-Clause (1) says that the Act

extends to the whole of the Presidency of Madras and applies, save as hereinafter provided, to all Hindu religious endowments other than Jain religious endowments.

The House has voted on the inclusion or exclusion of maths. If the present amendment of Mr. Narasimhacharlu is accepted, it will be inconsistent with the previous decision of the House."

Rai Bahadur T. M. NARASIMHACHARLU:—"I am sorry, Sir, my hon. friend, Mr. Ramaswami Mudaliyar, is making a mistake. The former amendment was to exclude the *maths* under all circumstances. That is, if an institution was called a *math*, then it could not come under this Act at all, under any circumstances. That was the scope of the amendment which was brought forward under Sub-Clause (1) of Clause (2) and it was vetoed. But I want to place a limitation and say that a *math* can be brought and administered under this Act only if the disciples desire so. I want to place a limitation on the control of the maths. Therefore, I am perfectly in order in moving this amendment."

The DEPUTY PRESIDENT (in the Chair):—"I think Mr. Narasimhacharlu can go on with his amendment."

Rai Bahadur T. M. NARASIMHACHARLU:—"In this connexion I wish to refer to paragraph 5 of the Select Committee's Report. They say:

The *math* as an institution exists for the spiritual welfare of its disciples. The *Matadhipathi* is an ascetic and could, *ex hypothesi*, have no interests other than those which are proper and which subserve the interests of his disciples.

"Now, that being the view with regard to the *matadhipathis*, what I submit is this: If the institution exists for the disciples of the *matadhipathis* and for their benefit, and if the disciples feel that there is no grievance at all, why should the Government at all interfere on their behalf before they say, 'we have a grievance, please rectify it'? I cannot understand this kind of voluntary or gratuitous offer on behalf of the disciples. The disciples say: 'we have a perfect *guru*; we like him; we allow him to spend money as he likes; it is to our interest that he spends or ceases to spend, and we allow him to do as he pleases.' Why should Government interfere in such a circumstance? I am supported not only by a *priori* argument but by the opinion of Sir Muttuswami Ayyar's Committee, who say distinctly at page 85 of the book supplied to us that it should be left to the disciples to see whether they should control the *matadhipathis* or not in the matter of administration. Besides, the difficulty is this. We have got a Central Board. This Board is going to be constituted with a president of the standing of perhaps a barrister from London; and the other commissioners will be of any sect or any creed or no creed whatsoever. They have to sit in judgment and issue orders to the *matadhipathis*. This is quite a new experience, Sir, that we are now feeling. Therefore, I say that if the disciples desire that this Act should be applied to any particular *math*, then let the Government take control of it, let them not unduly interfere with the religious independence which they have. I, therefore, submit that this amendment is a very desirable one."

26th March 1923]

Clause 2—cont.

The hon. the RAJA OF PANAGAL :—“ Mr. President, Sir, my hon. friend from Cuddapah has gone technically too far to make out a case that the motion of his amendment is not inconsistent with the rejection of a previous amendment. But I am sure the House will bear in mind what their decision was in regard to the other amendment and deal with the present amendment accordingly. In the course of his speech, the hon. Member referred once again to the venerable nature of some of the heads of these maths. I have already acknowledged, Sir, that some of them are really venerable. All respect to them. But this Bill does not aim at the curtailment of any of their spiritual activities. On the other hand, it is intended only to check the abuses of the trust properties. Under these circumstances, I am afraid I cannot accept this amendment.”

The amendment was put and lost.

(Amendment No. 15.)

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“ Sir, I beg to move—

Insert the following as a proviso :—

‘ Provided that before issuing such notification, the Local Government shall issue a notice to the managers, trustees or other persons interested in the Jain religious endowments concerned in the prescribed manner, and consider the objections, if any, urged by them to the issue of such notification.’

It will be seen from this Bill that in the first instance it does not apply to Jain religious endowments. But the Government are given the power to extend the Bill to such endowments. I think that, before exercising this power, the persons concerned should have some previous notice so that they may make the necessary representations. Without such safeguards, it will be dangerous to bring these endowments within the purview of this Bill. These endowments do not primarily come within the scope of this Bill.”

The hon. the RAJA OF PANAGAL :—“ Mr. President, I see the reasonable nature of the object of the amendment. But I take objection to the wording of the proposed proviso. Therefore, with your permission, Sir, and with the permission of the House, I move the following amendment to be substituted in place of my hon. friend Mr. Krishna Rao's amendment :—

Insert the following as a proviso :—

‘ Provided that before issuing such notification, the Local Government shall publish in the *Fort St. George Gazette* a notice of their intention to do so, fix a reasonable period for the persons interested in the endowments concerned to show cause against the issue of such notification and consider their objections, if any.’

The amendment of Rao Bahadur A. S. Krishna Rao Pantulu was by leave withdrawn.

The amendment of the hon. the Raja of Panagal was put and carried.

At this stage (1-30 p. m.) the House adjourned for lunch.

The Council re-assembled after lunch at 2-30 p.m. with the hon. the Deputy President in the Chair.

[26th March 1923]

Clause 2—cont.

(Amendment No. 16.)

New Sub-Clause after Sub-Clause (2)

Mr. R. SRINIVASA AYYANGAR :—"Sir, I move —

(a) *Insert the following as Sub-Clause (3) :*

'(3) Nothing in this Act shall apply to Sri Nataraja temple in Chidambaram and other religious endowments which the Local Government may, by notification, exempt from the operation of this Act.'

(b) *Re-number the existing Sub-Clause (3) as (4).*

"Mr. President, in view of the attitude of the House, which has taken on itself the power of investing the Local Government with discretion in the matter of exemption, I propose to confine myself only to the first half of this amendment, which seeks in effect to exempt from the operation of this Bill the Sri Nataraja temple of Chidambaram. My reasons, Sir, are briefly these. As everybody is aware, as every pious Hindu is aware, the Sri Nataraja shrine at Chidambaram is noted for its antiquity and is in charge of a number of *dikshitar*s, about 250 or so. These *dikshitar*s are the trustees and *archakas* of the temple and the management is entirely in the hands of that one single community. They are not merely trustees, but also beneficiaries entitled to share the offerings made by the several votaries to the temple. The management of this pagoda is somewhat unique. It may best be described as a democratic hierarchy and, as the House is aware, these *dikshitar*s are on duty in the pagoda by twenty at a time, and each batch of 20 stays on for 20 days till each has in his turn performed the complete tour of *pūja* at the different shrines. The moment their turn is over, it is taken up by another batch and so on until the full circuit is made up. So far as this temple is concerned, it receives no *Tasdic* allowance from the State; its trustees have not been nominated by Government and Government have at no time claimed to itself the right to appoint these gentlemen; nor has the nomination at any time vested in or been subject to the confirmation of Government or any public officer.

"As regards the so-called endowments, it would be a misnomer to call them endowments. We know, as a matter of fact, that many land-owners devote the produce of some particular plot of land to the service of the pagoda, and the value of this is either sent or delivered in person to the particular *dikshitar* who will be visiting the family and performing sacrifice on their behalf in the temple. Whenever there is a deficit these gentlemen go about and collect money or meet the deficit out of their own contributions. These persons, as I have submitted before, do not maintain accounts, for there is absolutely no necessity for it. The votive offerings which they receive every day are divided among the twenty people in turn; and when a special festival takes place, or *pavadai* is done, the offerings are distributed among the whole lot of *dikshitar*s, and there is absolutely no necessity to bring within the purview of this Bill an institution of this singularly remarkable character. It may perhaps be said that this institution has a large number of valuable jewels and that there is no guarantee that these people will not misappropriate them. To that my answer is mainly this: things have gone on for centuries and centuries, and until now we have not heard of any dispute except in one solitary instance thirty years ago, when, owing to the

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Clause 2—cont.

splitting up of the *dikshitar*s into two factions known as the major faction and the minor faction, some trouble arose, which went up to the High Court and was decided by Justice Muttuswami Ayyar in 14 Madras. Since then, absolutely no case of mismanagement has come to our notice; and as one who has studied in Chidambaram, as a native of that district possessing an intimate knowledge of this institution and as carrying on my avocation in that district, I am emboldened to state that there is absolutely no justification for bringing that temple within the purview of this Bill.

“Before I resume my seat, I should like to remind this House of one other aspect of the question. The present management is a purely autonomous body. They have a set of rules and regulations, which are far more stringent than any rules which the Board or the Court can be expected to frame for the purpose of governing their actions and activities. In this body each man feels that he is bound to pay the highest regard to the opinions of others. These *dikshitar*s are interested, therefore, in keeping up the worship and in celebrating the festivals so as to command the complete approval of the orthodox Hindus, inasmuch as the income depends for the most part upon the bounty of the worshippers. So, any outside control, to use the language of the memorialists, is bound to damp the enthusiasm of the *dikshitar*s and even prejudicially affect the management of the institution. One argument I anticipate from the hon. the Minister. Perhaps he may say in his reply that the Local Government has reserved for itself the power of exempting these institutions and it is perfectly open to it, either on the recommendation of the Board or *suo moto* to exempt this Sri Nataraja temple. My only justification for taking the view of this House on this point is that, instead of all these members of the *dikshitar* community being placed either at the mercy or the sweet will and pleasure of the executive Government or the Board, its subordinate body, I think it is far better that the House gives its assent to the exclusion of this temple from the purview of this Bill.”

The RAJA OF RAMNAD :—“Mr. President, I have tabled an amendment almost identical with the one that has now been moved. But the original amendment of my hon. friend from Cuddalore covered a wider ground. So I wish to know whether I should offer my remarks now or have another chance.”

The hon. the DEPUTY PRESIDENT :—“You had better do it at once.”

The RAJA OF RAMNAD :—“Sir, I think the position of these *dikshitar*s has not been correctly understood. It was stated by a previous speaker that they were the trustees and the *archakas*. I will go a step further and say that they form the constituent part of the temple itself. According to the Saivites, the *dikshitar*s hold a unique position. They formerly numbered three thousand and were known as Thillai Moovayiravars, of whom the god Nataraja was said to be one. They are held in the highest esteem and veneration. In the memorial which I had the honour to present the other day, it was given out that they had no relations among other peoples in any other part of the country. Now, their number has considerably dwindled; and they are only about 250 or so. The Saivites prostrate before them and even Brahmans do so. Recently, I witnessed such a respectable person as the Mahamahopadhyaya Swaminatha Ayyar prostrating before one of the

[The Raja of Ramnad]

[26th March 1923]

Clause 2—cont.

*dikshitar*s. That is the position which they occupy among the Hindus. I can say, Sir, that to Saivites, there is no higher sacred book than Thevaram and Thiruvachagam in Tamil. They are actually called the Tamil Vedas. In the Thevaram, one of the Nayanmars says 'தில்லைவாழ் அந்தணர்க்கும் அடியார்க்கும் அடியேன்'. That is the position which they have enjoyed from time immemorial. Of course, I anticipate what the answer from the Government Bench will be to this proposition. However, I should earnestly request them to kindly consider whether it is not unnecessary to bring these *dikshitar*s and the temple of Chidambaram under the provisions of this Bill.

"Further, we have not heard of any mismanagement or irregularity in the temple in question. Its management is unique. It is not under five people or ten people as is the case with other temples. The trustees that control the affairs of this temple number about 250, and the number varies with the growth of the family. So, is it right that their management should be interfered with or that they should be asked to go to Government with a petition for the exclusion of their temple from the operation of this Bill? All things taken into consideration, they should be left alone; and I do not think any one will be sorry for Government adopting this wise course. Further, the temple has been renovated at a very considerable cost—about a crore of rupees, I think—and our gratitude is due to the S.R.M.M. family. We have two distinguished members of that family present in this Council, Sir M. C. Muttayya Chettiyar and Diwan Bahadur Pethachi Chettiyar, and I am sure I am voicing their feelings when I say that this temple of *dikshitar*s should be left alone. We should consider it as sacrilegious if these *dikshitar*s who have existed from time immemorial are put on a par with the other trustees and dealt with by any such legislation. I have taken some pains to read the judgment of Sir T. Muttuswami Ayyar in 14 Madras. I think the case there was whether the majority view or the minority view should prevail, and whether the properties appropriated by the minority should be returned or not. That was the main issue in that case. I think the word 'trustee' is used there in a very wide sense and not in the limited sense in which it is sought to be interpreted. I shall illustrate it thus: by saying that the King is the guardian of his subjects you cannot say that he is to come under the Guardians and Wards Act. I therefore think that the word 'trustee' is used there in a wider sense. These *dikshitar*s go to form the constituent part of the temple and should not be treated as common trustees. With these words, I support the motion."

MR. A. T. MUTTUKUMARASWAMI CHETTIYAR:—"Mr. President, I beg to support this amendment as I have also given notice of a similar amendment. The great Sri Nataraja temple at Chidambaram, one of the five ancient temples in Southern India, is one which gets on without any endowed properties. There is no account maintained by the temple, and it is stated in the District Manual that the one charming peculiarity of this institution is that there are no accounts kept. If it has no endowment, certainly the present Bill should not apply to it. To say that this enactment would apply to a temple which has no endowments is a contradiction in terms. But serious doubts are entertained that such temples are likely to be brought within the purview of the Bill and the trustees would unnecessarily be called upon to render an account of the income which they

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Clause 2—cont.

get in the discharge of their duties as priests. Unlike the trustees of other Hindu temples, the trustees of this temple, who number nearly 250, are merely *archakas*, i.e., they conduct the daily *pūja* or worship and take what the worshippers or *kattaladars* give as offerings. They entirely depend on this daily income for their living. It is stated in ancient Hindu religious writings that the original number of these trustees, who now go by the name of *dikshitar*s, was 3,000. Now their number has dwindled down to about 400. Clause 2 says that this Bill applies only to religious endowments, and the definition of a religious endowment in Sub-Clause 11 of Clause 5 is such that the daily offerings made in the temple by worshippers cannot by any stretch of imagination be construed as an endowment or endowed property. The *dikshitar*s are managing the temple very well. The festivals and daily *pūjas* are conducted in a very orderly way and without any hitch. So, it is better that such temples are specifically excluded from the operation of this Bill. With these words, I support the amendment."

Mr. S. SOMASUNDARAM PILLAI:—"Mr. President, I oppose this motion. 2.45 p.m. When we pass a general Act, nobody is entitled to ask for exemption from the Act. For instance, in the case of the Penal Code, it may be necessary to exempt many people who may say 'I am an honest man; why should you make me submit to a Penal Code? No, I do not want it.' Of course, prestige, holiness and all that is not the point here; let the *dikshitar*s continue in their usual prestige and holiness. The point here is that when there are institutions having large properties, whoever is in possession of that property is a trustee. If he is honest, the Act will not affect him."

The RAJA OF RAMNAD:—"May I say that even honest people are required to render accounts?"

Mr. S. SOMASUNDARAM PILLAI:—"The Bill is intended to put down dishonest people, and if there are honest people also there will be no harm done to them. It is true that there were once three thousand *dikshitar*s in Chidambaram, and that the Chidambaram temple is the most important one in Southern India. It is venerated and honoured by all Saivites from the lowest parathesi to the highest satri. Nevertheless, if this temple is exempted, every other temple will ask for exemption: the Thirumalai people, for instance, will say, 'we are very holy persons and we must be exempted'. No human being is holy in my opinion; all are sinners, and such sinners must be made holy by imposing some check on them. Of course, we do not interfere with their worship or rites or any other thing. We simply ask every one in possession of public property to submit to some check. I know that the *dikshitar*s of Chidambaram are highly honoured people, but I have also known some people who are for including the Chidambaram temple in this Bill."

The RAJA OF RAMNAD:—"May I ask the hon. Member to name one *dikshitar* who is in favour of including this temple in the Bill?"

Mr. S. SOMASUNDARAM PILLAI:—"I am sorry, Sir, I cannot give the name, but one *dikshitar* very strongly spoke in favour of including this temple also."

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Clause 2—cont.

Sir M. C. T. MUTTAYYA CHETTIYAR:—"He may be a *dikshitar*, but not a Chidambaram *dikshitar*" (laughter).

Mr. S. SOMASUNDARAM PILLAI:—"He is a Chidambaram *dikshitar* and he belongs to the Chidambaram temple."

Sir M. C. T. MUTTAYYA CHETTIYAR:—"One who takes *diksha* is a *dikshitar*."

Mr. S. SOMASUNDARAM PILLAI:—"What I say is that it will be very unjust to exempt one temple, simply because certain hon. Members here feel that it ought to be exempted. With these few words, I oppose this amendment."

Sir M. C. T. MUTTAYYA CHETTIYAR:—"This amendment is a special one inviting our attention to a special set of facts and usage the like of which we do not meet with elsewhere in the whole Presidency of Madras. Here is a famous shrine venerated as a most sacred place of worship and pilgrimage, which is managed on peculiar and distinctive lines. Its management is singular and has been described as a democratic hierarchy. The turns of management and the close identification of the interests of the *archakas* or the *dikshitar*s with the endowment, both of whom are interdependent for mutual upkeep, for prosperity and popularity, ensure excellent service in the conduct of the institution. Here is a joint-family-like group ready to stand by and live or die with the institution. Can there be a better mode of securing careful management? Can there be a better safeguard which this Bill may claim to provide for this institution than the instinct of self-preservation of its guardians? Of course, this amendment may be an exception, but it will be an exception which proves the rule. We need therefore have no misgiving in sanctioning the exemption of this temple which has come to us from antiquity, and whose internal management and government is by the vote of the majority according to modern ideas. So I would earnestly request the hon. the Minister to exempt this temple from the operation of this Bill and to leave the institution as at present managed."

The hon. the RAJA OF PANAGAL:—"Mr. President, it has been pointedly stated that the *dikshitar*s of Chidambaram command high respect from devotees. It is not for me to dispute that statement. But I cannot understand how the circumstance that they command respect from some others can be a guarantee for the proper management of the trust properties. The question before us is whether there is any property belonging to the temple which deserves preservation. My hon. friend opposite, Mr. Srinivasa Ayyangar, has conceded that the temple has valuable properties. Now, Sir, the question is: how are we going to guarantee the safety of these properties? It is proposed that there should be some sort of check imposed on the management of the temple properties. That really is the object of the Bill. Sir, I do not say that all cases are alike. There may be differences. This morning my hon. friend, Mr. Rama Rao, stated that the Udipi math and the temples of South Kanara should be exempted, my hon. friend, the Member from Malabar, maintained that Malabar temples were peculiar; and now, my hon. friends who have spoken this afternoon, say that the case of Chidambaram is singular. Well, Sir, each may have a peculiarity in its own way; each may have its own sanctity. But the object of the present Bill

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Clause 2—cont.

is to preserve these institutions from mismanagement. If on inquiry it is found that there is any temple which deserves exemption, then that case will be considered by the Government. We have taken power to the Government under the amendment of the hon. Mr. Venkataramana Ayyangar, to exempt such institutions from the operations of any or all of the provisions of this Bill."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"Sir, I do not propose to traverse the ground that has already been covered by my hon. friends who supported this amendment. The hon. the Raja of Panagal gave two or three reasons why this temple of Chidambaram should not have a differential treatment, and I propose addressing myself to them.

"His first reason is this: although it may be that the present management of the temple may be unimpeachable there is the duty cast on us of securing proper management in the future, and it is therefore necessary that this temple should come within the purview of this Bill. Now, Sir, my reply to it is simply this: as a matter of fact, this is not one of the temples that are covered by Act XX of 1863, and we have not here . . ."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I dispute that statement, Sir. I would refer the hon. Member to 14, Madras, where it was held that the temple fell under Section 4 of that Act."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"We have to recognize that the trusteeship is not one which has to be in any way approved by the Government. But, as a matter of fact, it will be found that so far as this temple of Chidambaram is concerned, there has not been any litigation respecting any mismanagement of it or speculation by the trustees."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I dispute that statement again, Sir. 14, Madras again is authority to show that there was an allegation of peculation and mismanagement."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"That was, Sir, due to the party spirit among the *dikshitar*s themselves. As a matter of fact, that is what has been made out by that decision itself. Now, what I wish to press strongly upon the consideration of this House is this: if you find that there is an ordinary law which relates to trustees and by which any kind of mismanagement or peculation by trustees can be guarded against, the additional protection which is given by this Bill is not required in the case of such *devasthanams* as the Chidambaram *devasthanam*. The reason is this: it will be found—this cannot be gainsaid—that whatever remains over and above what has been expended for the temple becomes the property of the *dikshitar*s. Now, what exactly this Bill will do is this: so far as the payment of the percentage is concerned, namely, $1\frac{1}{2}$ per cent or 3 per cent as the case may be according to the view you take of the nature of the temple, it will have to come out of the income of the temple. Practically, it means that you will have to penalize the *dikshitar*s so far as this $1\frac{1}{2}$ or 3 per cent goes. Now, the question is, have they done anything in the past which will justify this kind of penalizing, especially when you find that the functions of the *archakas* and the trustees are so indissolubly blended in these persons that their case is very different from what you find in respect of the *dharma-karthas* of other temples? That is an excellent reason why you should differentiate their case from the others.

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Clause 2—cont.

“My hon. friend, the Raja of Panagal, has told us that there is another provision by which it is possible for us to exempt this temple from the operation of this Bill — the provision under which the Local Government is given the power to do so. Now, if we are agreed — I believe the arguments already advanced by the hon. gentlemen that have preceded me must have convinced this House — that, so far as this temple is concerned, it is one which deserves exemption, I submit there is no need for us to wait until the Local Government once again exercises the power that is vested in them by the provision already passed by this House.

“For these reasons, I would request that this amendment be accepted.”

MR. R. SRINIVASA AYYANGAR :—“I should like to examine briefly the reasons advanced by the hon. the Minister against the amendment moved by me. I always believed that the object of any kind of legislation was to fight an existing evil or to meet the existing state of things. I do not think that it is the policy of any legislation to provide safeguards against the possibility of posterity erring at a remote period of time. If I understood the hon. the Minister correctly, he asked if the people who were at present responsible for the management were all honest, and what guarantee there was that their successors might continue to be honest. If their successors show a disposition to relax the excellence of the management, or to lapse into questionable ways, then it will be perfectly open to the Council of the time to seriously think of tackling that question and grappling with any contingency that may possibly arise. That is my answer, Sir, so far as that argument of his is concerned.

“Then, the hon. the Minister said: ‘Well, it is conceded that the temple holds some substantial property. Is there any reason why any effective check should not be placed upon the property?’ As regards that I may at once ask whether we would relish the idea of being called upon to submit an inventory of the properties to the authorities concerned. Moreover, this Chidambaram temple is unlike other temples where the maximum number of trustees is about five. I have known instances of various temples

having one or two trustees, the maximum not going beyond five.
 3 p.m. But this is a peculiar institution in which we are having as many as 250 trustees, and this circumstance, I submit, goes a great way in reducing the possibilities of any spoliation or speculation, for it is difficult in the very nature of things to escape the vigilance of a large body of *archakas*. Therefore, all things considered, and regard being had to the history of the institution and to the way in which this institution is being properly managed and worked to the satisfaction of all concerned, I submit it is imperative upon this House to vote for this amendment; and I have not the slightest doubt that a day’s visit to that shrine will remove any fears which any hon. Member may entertain on this matter.”

The hon. the RAJA OF PANAGAL :—“Sir, I have listened to the speeches of my hon. friends Diwan Bahadur L. A. Govindaraghava Ayyar and the reply of Mr. R. Srinivasa Ayyangar. They have adduced two arguments in support of their position. To me, Sir, both of them appear to be arguments more against than in favour of their contention. In the first place, Diwan Bahadur L. A. Govindaraghava Ayyar has stated that whatever remains after meeting the expenses of temples will go to the *archakas*. That is

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Clause 2—cont.

exactly the reason why we must have some means of control whereby we can induce these *archakas* to do their best in the matter of worship to the deity.

The RAJA OF RAMNAD :—" May I just say a word, Sir? It is not correct to say that whatever remains is appropriated by the *dikshitar*s. They receive the money; they purchase the articles; they make the offerings; and they appropriate the offerings among themselves."

The hon. the RAJA OF PANAGAL :—" Sir, I only repeated what my hon. friend Mr. Govindaraghava Ayyar had stated in refuting his arguments. He said the *dikshitar*s were both trustees and *archakas*.

" Again, Sir, Mr. Srinivasa Ayyangar has stated that the number of *dikshitar*s is enormous and that they are the trustees of the temple. Even in cases where the number of trustees is limited, control seems to be necessary. But where the number is unlimited it goes without saying that the control is much more necessary. Again, Sir, the contention of my hon. friends who are in favour of the amendment is that this is a very peculiar temple and a temple with very strange usages. If that is the case, it is for them to demonstrate to the Government, when they apply for exclusion, that the temple is a very peculiar one. So, Sir, I do not see any reason why this amendment should be accepted by the Government."

The amendment was put to vote and declared lost.

Rao Sahib U. Rama Rao demanded a poll which was taken with the following result :—

Ayes.

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| 1. Mr. S. T. Shanmukham Pillai. | 9. Rao Bahadur A. S. Krishna Rao Pantulu. |
| 2. Diwan Bahadur S. Rm. M. Ct. Pethachi Chettiyar. | 10. Rai Bahadur T. M. Narasimhacharlu. |
| 3. Mr. K. Adinarayana Reddi. | 11. Rao Sahib U. Rama Rao. |
| 4. " A. T. Muttukumaraswami Chettiyar. | 12. Diwan Bahadur D. Seshagiri Rao Pantulu. |
| 5. " P. Subbarayan. | 13. Mr. R. Srinivasa Ayyangar. |
| 6. " K. Sitarama Reddi. | 14. The Raja of Ramnad. |
| 7. Diwan Bahadur M. Ramachandra Rao Pantulu. | 15. Mr. K. Prabhakaran Iampan. |
| 8. " L. A. Govindaraghava Ayyar. | 16. Rao Sahib Sir M. C. T. Muttayya Chettiyar. |

Noes

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| 1. The hon. Sir Charles Todhunter. | 12. Mr. E. Periyamayagam. |
| 2. " Khan Bahadur Sir Muhammad Habib-ul-lah Sahib Bahadur. | 13. Rao Sahib T. C. Tangavelu Pillai. |
| 3. " the Raja of Panagal. | 14. Mr. A. Ramaswami Mudaliyar. |
| 4. " Rai Bahadur K. Venkata Reddi Nayudu. | 15. " S. R. Y. Ankinedu Prasad Bahadur. |
| 5. " Rao Bahadur A. P. Patro. | 16. Diwan Bahadur C. Arunachala Mudaliyar. |
| 6. Mr. E. S. Lloyd. | 17. Rao Bahadur P. C. Etirajulu Nayudu. |
| 7. " A. Y. G. Campbell. | 18. Diwan Bahadur Sir P. Tyagaraya Chettiyar. |
| 8. Rai Bahadur N. Gopalaswami Ayyangar. | 19. Diwan Bahadur M. Krishnan Nayar. |
| 9. Mr. C. Madhavan Nayar. | 20. Rao Bahadur O. Thanikachala Chettiyar. |
| 10. Diwan Bahadur T. N. Sivagnanam Pillai. | 21. Mr. W. Vijayaraghava Mudaliyar. |
| 11. Mr. E. F. Thomas. | 22. Rao Bahadur K. Gopalakrishnayya. |
| | 23. Mr. J. Kuppuswami. |

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Clause 2—cont.

Noes—cont.

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| 24. Mr. B. Muniswami Nayudu. | 36. Abbas Ali Khan Bahadur. |
| 25. „ M. Narayanaswami Reddi. | 37. A. D. M. Bavotti Sahib Bahadur. |
| 26. Rao Bahadur C. Natesa Mudaliyar. | 38. Muhammad Abdur Rahim Khan Sahib. |
| 27. Mr. V. P. Pakkiriswami Pillai. | 39. Khan Sahib Munshi Muhammad Abdur Rahman Sahib. |
| 28. „ P. T. Rajan. | 40. Saiyid Diwan Abdul Razaak Sahib. |
| 29. „ W. P. A. Saundara Pandiya Nadar. | 41. Khan Bahadur Muhammad Sadulla Badesha Sahib Bahadur. |
| 30. „ R. K. Shanmukham Chettiyar. | 42. Khan Bahadur Muhammad Usman Sahib Bahadur. |
| 31. „ S. Somasundaram Pillai. | 43. Rao Sahib M. C. Madurai Pillai. |
| 32. „ C. Venkataranga Reddi. | 44. Mr. G. Vandanam. |
| 33. Diwan Bahadur R. Venkataratnam Nayudu. | 45. Rao Sahib P. Venkatarangayya. |
| 34. Mr. S. Muttumanikkachari. | |
| 35. „ T. Sivasankaram Pillai. | |

Sixteen voted for the motion and 45 against it. The motion was lost.

Sub-Clause (3).

(Amendment No. 17.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—“Sir, the amendment that stands in my name runs as follows:—

For this Sub-Clause, substitute the following:—

- “(3) Nothing in this Act shall apply to any math nor to any temple whose annual average gross income from endowments connected therewith for a period of five years immediately preceding the commencement of this Act was less than Rs. 250 provided that the Local Government may at any time issue a notification declaring that all or any of the provisions of this Act shall apply to any math or to any such temple.”

Now, Sir, it is not necessary for me to labour the second portion of this amendment, because it is practically repeating what we find in the text of the Bill itself. It is only with respect to *maths* that I shall have to make my observations. What I wish to state for the consideration of the House is this. If hon. Members had followed the discussion that we have had so far with respect to the propriety or otherwise of including the *maths* in this Bill, they would have noticed that there was a great variety of *maths* and a great difference amongst them with respect to their constitution and the exact powers the heads of these *maths* had over the funds of the institutions of which they were the heads. As has been pointed out in the case reported in 44 Madras to which I referred, there are institutions whose heads do not exactly stand in the position of trustees; but those cases may be taken to come under the provisions of Clause 57. There may be other cases wherein the position of the head of the *math* is exactly the same as that of a trustee.”

Mr. A. RAMASWAMI MUDALIYAR:—“May I rise to a point of order, Sir? This amendment of my hon. friend, Mr. Govindaraghava Ayyar, raises exactly the same question as has been already decided by the House, viz., whether *maths* should be excluded from the Bill. The clause that is now proposed says:

Nothing in this Act shall apply to any *math* . . .

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Clause 2—cont.

so that *maths* are proposed to be excluded from the scope of the Bill. But that is a point on which a decision has already been arrived at by the Council."

The hon. the DEPUTY PRESIDENT :—" But in this motion, Mr. Govindaraghava Ayyar adds the words :

' Whose annual average gross income '."

Mr. A. RAMASWAMI MUDALIYAR :—" That applies, Sir, according to the language employed in the amendment, to the temples but not to the *maths*."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, I have two replies to give. The first reply is that my hon. friend, Mr. Ramaswami Mudaliyar, is too late in raising his point of order. The second reply is that the present case is governed by your previous ruling, Sir, that is, the ruling which you gave with reference to an amendment in respect of which my hon. friend raised the same objection but with no success. But my present motion —"

Mr. A. RAMASWAMI MUDALIYAR :—" May I submit, Sir, that you did not then give any ruling. I understood you not to have given any ruling, but that you allowed the discussion to proceed."

The hon. the DEPUTY PRESIDENT :—" But in this amendment, there is the clause :

Whose annual average gross income from

Mr. A. RAMASWAMI MUDALIYAR :—" That clause, Sir, qualifies the word 'temple'. If it is meant to apply to both temples and *maths*, there is not much distinction between this and the clause as it stands now."

The hon. the RAJA OF PANAGAL :—" Sir, I myself thought of the point of order, but I wanted to hear how the hon. the mover of the amendment was going to justify the motion now that he has spoken. . . ."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" I have not yet finished speaking, Sir."

The hon. the RAJA OF PANAGAL :—" Sir, if the word 'nor' is disjunctively used, it would exclude *maths*. If, however, having an income of Rs. 250 annually applies both to temples and *maths*, he is right and he is within his limits. But, Sir, from the tenor of his speech I gather that he wants to make an exception in favour of all *maths* and of those temples whose annual income is less than Rs. 250. In these circumstances, I ask, on a point of order, if this is permissible."

The hon. the DEPUTY PRESIDENT :—" I cannot imagine that Mr. Govindaraghava Ayyar has brought in the amendment without any reference to the income of the *maths*."

2-15 p.m.

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" I am sorry to say, Sir, that is what I meant : to raise the question of income only in the case of temples."

The hon. the DEPUTY PRESIDENT :—" Then I am afraid, the hon. Member is out of order. The amendment would be inconsistent with the

[The Deputy President]

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decision already arrived at by the House. The hon. Member is bringing in a matter which has already been disposed of."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"If that is the ruling of the Chair, I have nothing to say."

The amendment fell out.

(Amendment No. 18.)

Rao Bahadur C. NATESA MUDALIYAR:—"Sir, I move the amendment standing in my name :

For the words ' five hundred ' substitute the words ' three thousand '.

"Sir, it is very difficult for the *maths* with a small income to make both ends meet, and I think the enforcing of this Bill may work hardship upon such *maths*. If any complaint of mismanagement is brought against them it is better that the Government and the Board interfere in their administration. In the Wakf Estates Act passed recently by the Government of India Rs. 2,000 is fixed as the minimum. With these words, I move the amendment for the consideration of the House."

The hon. the RAJA OF PANAGAL :—"Sir, this question has been considered at great length in the Select Committee stage of the Bill. Various standards were suggested, and after a long discussion it was decided by the Select Committee that the minimum in the case of *maths* should be Rs. 500, and in the case of temples Rs. 250. Besides, Sir, as matters stand, there are a number of temples under committee management whose income is Rs. 250 or thereabout. In these circumstances, I appeal to the hon. Member to withdraw the amendment."

The amendment was by leave withdrawn.

(The hon. the President here took the Chair.)

(Amendment No. 19.)

Rao Bahadur C. NATESA MUDALIYAR :—"Sir, I move—

For the words ' two hundred and fifty ' substitute the words ' two thousand and five hundred.'

"Sir, in all these small temples with small income it is the trustee that spends out of his pocket to celebrate the various festivals. Moreover, Sir, there will be thousands of temples which it would be unwise to bring under the provisions of this Bill. If any complaint of mismanagement is brought in the case of any such temple, I think the Government and the Board may interfere. I again repeat what I stated already, that the Wakf Estates Act provides for a minimum of Rs. 2,000."

The hon. the RAJA OF PANAGAL :—"Sir, I have already explained my position in regard to a similar amendment moved by my hon. friend, Dr. Natesa Mudaliyar. This question was discussed by the Select Committee and, as I have already stated, there are a number of temples with incomes of about Rs. 250 a year. They are already under the management of committees. It will not be proper therefore to exclude them from the committee management. I quite see the force of the hon. Member's argument. If I could, I would be quite willing to exempt the temples with

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Clause 2—cont.

small incomes. But on account of the fact that there are such temples already under committee management, I think it would be inexpedient to exclude them from the management of the committee."

The amendment was by leave withdrawn.

(Amendment No. 20.)

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I move—
To omit the proviso.

"Sir, the House is aware that Sub-Clause 3 specifies that it is only in the case of maths having an income of Rs. 500 and temples having an income of Rs. 250 that this Bill shall apply. But my hon. friend, Mr. Natesa Mudaliyar, moved amendments to the effect that the limits should be increased to Rs. 3,000 and Rs. 2,000, respectively, evidently suggesting thereby that the limit of Rs. 500 and Rs. 250 was so circumscribed that there ought to be further increase. But his amendments have had the same fate as the others from this side of the House. Though he did not succeed, I would suggest, Sir, that this proviso would create further hardship in the direction. Having fixed the limit to Rs. 500 and Rs. 250, to say that there should be a special power reserved to the Local Government that even in the case of temples and maths with incomes less than Rs. 250 and Rs. 500 a notification may be issued declaring that the provisions of this Bill shall apply is undesirable. When the House is agreed not to go further than Rs. 500 and Rs. 250, to say that the Government shall have further powers to bring the small temples and maths within the scope of the present Bill is unreasonable. I therefore move that the proviso be deleted."

The hon. the RAJA OF PANAGAL :—"Mr. President, mismanagement is mismanagement whether it is perpetrated by trustees of small or big temples. The idea with which this Bill is introduced is to prevent mismanagement. Further, it is true it will be very inconvenient to attack the management of these temples; but it seems to me, Sir, that it is much better to have provision to interfere with them—a provision to be used in cases of mismanagement. It is for that reason that this proviso has been added."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I am not at all satisfied with the reasons adduced by the hon. Minister in opposing this motion. I believe that we follow some logical principles in pushing through this Bill. If, as a matter of fact, the Government proceed on the footing that mismanagement is mismanagement relating to all temples, let us have all institutions under control. There is no necessity for Sub-Clause (3) at all. Why they have fixed a limit on the income at Rs. 500 and Rs. 250, I cannot at all understand. Again, I wish to remind the House that though in the original Bill there was no provision for anything like excepted temples, still the distinction was made by the Select Committee in deference to the wishes of zamindars."

The hon. the RAJA OF PANAGAL :—"I rise to a point of order, Sir. I wish to know how the question of excepted temples is relevant in connexion with the discussion on this amendment."

Clause 2—cont.

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Rao Bahadur A. S. KRISHNA RAO PANTULU :—"If my hon. friend had only waited, my next sentence would have made the relevancy clear. Because the hon. the Minister has stated that mismanagement is mismanagement, and that therefore we should have a uniform principle in all cases of mismanagement, I fail to see why there should be a class of excepted temples or *maths*. If we are legislating in the case of different temples and different institutions in that manner, we cannot object to the taking away of this proviso from this clause. Because we have created that distinction in this Bill we have imposed a limit as to the income in Sub-Clause (3) of Clause 2. I would ask the Minister to confine himself to the provisions already embodied in the Bill. Why there should be any further power for extending the operation of the Bill is not plain."

The amendment was put and lost.

Clause 2, as amended, was then put and carried and added to the Bill.

Clause 3.

Clause 3 was put and carried and added to the Bill.

Clause 4.

Clause 4 was put and carried and added to the Bill.

Clause 5.

Sub-Clause (1).

(Amendment No. 21.)

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYAR :—"Sir, in view of a later amendment of mine suggesting a committee of disciples, I would now but formally move this amendment, viz.—

Omit this Sub-Clause and re-number the subsequent Sub-Clauses."

The hon. the PRESIDENT :—"Probably, it may be convenient to the House that the whole discussion about the existence of the Board is taken up in connexion with the definition in this Sub-Clause, if it is agreed that subsequently, when we come to the various operative clauses of the Bill, we shall abide by the decision arrived at now."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"May I point out, Sir, that there are various amendments to delete portions of Clauses 6 to 15? In view of the President's ruling on the other amendment it seems to me that the best course will be to take the amendment under Clause 6. The whole question can be discussed under that clause."

The hon. the PRESIDENT :—"I think that the suggestion of Mr. Ramachandra Rao is very sensible. I think that the best place for us to consider the question of the Board will be when we come to Clause 6."

The hon. the RAJA OF PANAGAL :—"I have no objection, Sir."

The hon. the PRESIDENT :—"That being so, the hon. Member Mr. Pethachi Chettiyar will be well advised to withdraw his motion on the understanding that, if later on the House decides not to have a Board, the Government will move a consequential amendment."

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Clause 5—cont.

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYAR :—"I have no objection to withdraw."

The amendment was by leave withdrawn.

Sub-Clause (2).

(Amendment No. 22.)

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYAR :—"I formally move the amendment standing in my name:

Add the following at the end of Sub-Clause (2), Clause 5 :—

'so far as non-exempted temples are concerned and includes the committee of disciples so far as the Saiva Siddhanta maths and institutions subject to such maths are concerned'."

The hon. the RAJA OF PANAGAL :—"I object to this amendment, Sir. The question of forming committees is more or less a matter to be taken up when the question of framing schemes is under consideration. It is left to the Board to form committees and to make schemes, and in exercise of that power the Board may consider the desirability of appointing such committees as are contemplated in this amendment."

Diwan Bahadur S. Rm. M. Ct. PETRACHI CHETTIYAR :—"As this question is not in any way related to the decision that the House may come to on the existence of a Central Board, I choose to press it to a division."

The amendment was put and lost.

Sub-Clause (3).

(Amendment No. 23.)

Mr. M. SURYANARAYANA :—"Sir, I beg to move—

After the words 'District Judge' insert the words 'or the Court of a Subordinate Judge or District Munsif.'

"Sir, the House will observe that the committee to be constituted under the Bill have jurisdiction over all temples other than 'excepted temples' whose gross annual receipts do not exceed Rs. 250; and the Local Government may extend the Bill to these latter class of temples also. I expect thousands of temples of this description in this Presidency. Turning to Schedule II of the Bill, the House will find that there are a number of clauses under which a suit or an application can be filed in court. In item 2 of the Schedule it is stated that an application under Clause 51 (2) authorizes a Board under stated circumstances to frame a *scheme* for the administration of a temple under the jurisdiction of a committee. Suppose a scheme is prepared in respect of a temple whose annual gross income is Rs. 500. Where is the need for wasting the energy of the District Judge in respect of such a small matter? Besides the matter specially referred to in the Schedule, I take it that there will be a hundred and one other matters in respect of which parties could go to a court. If such suits not specially excepted by the Bill could be tried in a subordinate civil court, I do not see any reason why suits or applications contemplated by the Bill should alone be tried by the District Court.

3-30 p.m.

[Mr. M. Suryanarayana]

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Clause 5—cont.

“ Sir, we have been complaining that the Sessions and other criminal work are engaging the attention of the District Judges and that they have not sufficient time to attend to civil work. The hon. Member, the Raja of Ramnad, the other day complained that the District Judges who were invested with special jurisdiction in regard to appeals in rent cases were not able to attend to them, with the result that there were heavy arrears. Why should the suits and applications under the present Bill be made to lie to the District Judge when the Subordinate Judges can try suits of an unlimited value, when a District Munsif can try suits up to the value of Rs. 3,000 which include suits in regard to redemption of mortgage, etc. ? Why cannot the suits under the Estates Land Act be tried by the Subordinate Judge and a District Munsif having regard to their pecuniary value ?

“ With these few words, I beg to commend the amendment for the acceptance of the House.”

The hon. the RAJA OF PANAGAL :—“ This question was discussed at great length in the Select Committee and the Committee by a majority decided to allow the Bill to stand as it does. But, Sir, I have no objection to accede to the principle aimed at in this amendment provided I am permitted to slightly alter the wording of the amendment.”

The amendment of Mr. M. Suryanarayana was by leave withdrawn.

(Amendment No. 24.)

The hon. the RAJA OF PANAGAL :—“ Sir, I beg to move—

Add at the end the following :—

‘ and includes any court inferior in grade to the Court of the District Judge which is specially empowered by the Local Government to exercise within such local limits as may be prescribed by the Local Government the whole or any part of the jurisdiction conferred on a court by this Act’.

The amendment was put and carried.

Sub-Clause (5).

(Amendment No. 25.)

Rai Bahadur T. M. NARASIMHACHARLU :—“ Sir, I beg to move—

Omit this Sub-Clause.

Sir, I submit that this provision regarding excepted temples is creating an invidious distinction. It is stated in paragraph 7 of the majority report of the Select Committee :

The trustees of most of the ‘excepted temples’ on the other hand are zamindars and other wealthy landholders or other persons who have made and, in some cases, continue to make voluntary contributions for their support. They take strong exception to control by local committees and any alienation of their sympathies is likely to affect prejudicially the pecuniary support which the temples have received and are receiving at their hands.

My submission is that this argument is not only invidious but that it is also fallacious. If it is apprehended that the zamindars and landholders will withhold the charity on account of the mere fact that they are controlled by local committees, then their charity is not worth having. On the other hand, if they are really pious and good people they will continue to make

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Clause 5—cont.

contributions. If they really mean to serve God, they will continue their charity without being offended by the control exercised over them by the committee. I submit, Sir, that the Government should not make any invidious distinction between temples which are managed by zamindars and wealthy landholders and those which are not managed by such people. The Government, on the other hand, ought to take a very impartial view of the matter. In this connexion I wish to draw the attention of the House to the remarks made by Sir T. Muttuswami Ayyar's Committee upon this point. The Committee say :

We feel convinced that the limited control we have suggested, while it can in no way interfere with the internal management of temples by hereditary trustees, or diminish the prestige enjoyed by them, is a sufficient check against malversation or improper expenditure. We have arrived at this conclusion not because we think there have been no instances of malversation or laxity of management in the case of temples under the management of hereditary trustees, nor because we think that they are in principle entitled to any concession, but because we know that temples of this kind often receive periodically voluntary contributions of money from the raja or zamindar under whose management they happen to be, and that it is not desirable in the interests of the temples themselves to weaken or destroy such motives by alienating their sympathies.

This shows, Sir, that even the zamindars sometimes misappropriated and that there was sometimes laxity in their administration also. My submission is that no zamindar has got the time or the inclination to attend to the petty details of any such institution and therefore it is all the more necessary why they should also be kept under control. If this House is not going to respect the sentiments of *matadhipathis*, I am surprised why it should respect the sentiments of zamindars."

The hon. the RAJA OF PANAGAL :—"Do I understand the hon. Member to say that under this Bill the status of the trustee of an excepted temple is much better than that of the head of a math?"

Rai Bahadur T. M. NARASIMHACHARLU :—"That is exactly my contention, Sir. Hitherto no distinction was made at all between one temple and another and no maths were included in any enactment. Now, certain temples are constituted as 'excepted temples' and preferential treatment is meted out to them. I submit, Sir, that even from the Government point of view, it would show that they have some partiality."

The RAJA OF RAMNAD :—"Sir, I think the differentiation made in this Bill is not with respect to zamindar owned temples and private people owned temples, but the differentiation made is between temples that existed in 1842 and never came into the management of the Government and temples which actually came into the hands of the Government but subsequently handed over to very many people. That is the differentiation that is made in the Bill. Of course, my hon. friend, Mr. Narasimhacharlu, wants to belittle the importance of zamindars and other landholders. He complained that the zamindars would not have the required time to attend to the duties of trustees of temples. I can only say that experience has shown that they did find the time and also the required money. Many of such temples are even to this day under the control of zamindars without any complaints made against them. They had the time to found most of these temples; they had the time to endow them and lavish their wealth on them and found time to manage them down to this date; and, as I have already stated in my speech during the first reading of the Bill, it is not right that these

[The Raja of Ramnad]

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Clause 5—cont.

facts should be forgotten. It is not just on the part of communities who have never in their life thought of contributing even a single pie to these temples to belittle the importance of a community such as that of the zamindars and the landholders who have spent so much of their wealth on these temples. It is not fair to ask this House not to make any differentiation between the zamindars and the ordinary people. I therefore not only oppose this motion, but also appeal to hon. Members to show that consideration which the zamindars and landholders are legitimately entitled to."

The hon. the RAJA OF PANAGAL :—" I am rather surprised at the attitude of the hon. Member from Cuddapah. I cannot for a moment understand why he characterises this particular class of temples as temples endowed by zamindars and landholders. There may be as many temples endowed by merchants and even vakils. It is not in favour of zamindars and landholders that this exception is made, but it is in favour of the temples of a defined class. That, Sir, ought to be borne in mind in considering this particular question.

" My hon. friend says that invidious distinction has been drawn between temples and temples. But the distinction exists in spite of and even against any attempted legislation. There are temples endowed and managed by the State and there are also temples endowed and managed by others. If a temple which had been managed by the State was handed over subsequently to a private individual, then the claim of that individual to continue in the absolute management of that particular temple is not the same as that of another whose ancestors having endowed the temple continued to manage its affairs.

" Apart from this there is yet another consideration which is very important. If to-day we say that the endowments which are maintained, not from the funds of the endowments, but from annual gifts from some of the wealthy people, be they zamindars or others, are included in the category of the committee-managed temples, there would be difficulty: who is to maintain these temples? I am afraid, Sir, that the committee may not pay out of their own pockets funds to maintain such temples. This exception therefore has been made more or less as a matter of administrative expediency. In this connexion I may say, Sir, that Lord Carmichael, who was responsible for one of the Bills on this subject, draws a distinction in the case of these temples and says that they should not at all be brought under the operation of the Bill. Again, Sir, Sir T. Muthuswami Ayyar, who was responsible for a similar Bill, also proposed to make an exception in the case of such temples; so too the late Mr. Chengal Rao. The present Government have only followed the policy. Sir, I cannot accept the amendment."

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, the hon. the Minister said that this Clause applied not to the zamindars but to particular temples, and that there were temples endowed by merchants and vakils."

The hon. the RAJA OF PANAGAL :—" I said ' there may be ', Sir."

Rai Bahadur T. M. NARASIMHACHARLU :—" Only, Sir, that ' may be ' is a mere hypothesis."

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Clause 5—cont.

The hon. the RAJA OF PANAGAL :—"If there are not, Sir, I am only sorry for it. But that only adds so much to the credit of the class whom my hon. friend wants to condemn."

Rai Bahadur T. M. NARASIMHACHARLU :—"Anyhow, there is no such mention made here, Sir. Only zamindars are mentioned here. I am not at all imagining a thing and saying it; I only quote from paragraph 7 of the Report which speaks distinctly of the zamindars and other wealthy landholders. Therefore, I say that specifying these people and excepting the temples which they manage, amounts to an invidious distinction. It may no doubt be true that their ancestors might have endowed these temples, but as true descendants of those ancestors, I expect them to be pious."

The hon. the RAJA OF PANAGAL :—"It is not for this Government or any legislative body to dictate piety to others."

Rai Bahadur T. M. NARASIMHACHARLU :—"Yes, Sir, we do not certainly expect piety to come from dictation; it must be inborn. Then again, Sir, it is feared by the Government that if these temples are not excepted, the zamindars will cease to give their annual gifts; but I am very doubtful about this. People who have been giving every year some amount to a temple will be bound to give it year after year."

The hon. the RAJA OF PANAGAL :—"Are they legally bound?"

Rai Bahadur T. M. NARASIMHACHARLU :—"Such a temple has got a legal claim over the purse of the zamindar. Therefore, Sir, we need not at all take notice of this threat from the zamindars, and if the zamindars are likely to withhold the gift simply because the temple is not excepted, then that gift is not worth having. Let us have a temple without their gift rather than with it."

The amendment was put and lost.

(Amendment No. 26.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—"Sir, I beg to move the following amendment :—

For Sub-Clause (5), substitute the following :—

- (5) "Excepted temple" means a temple which at the time of the commencement of this Act is under the management of a hereditary trustee'.

In this connexion I should like to say, Sir, that the year 1842 appears to have been arbitrarily fixed. When hereditary temples founded since the year 1842 have been classed as 'excepted temples', there is no reason why temples founded before that date and which are under the administration of hereditary trustees since 1843 should not be accorded the same treatment. There are trustees who have been in possession for nearly 80 years; and 60 years of adverse possession enables a person to claim a prescriptive right even as against the Government, not to speak of the period of 20 years which is sufficient to vest such prescriptive right as against individuals. I may also point out that in the previous Report of the Bill prepared in the year 1863, it is clearly stated, as being the opinion of some of the eminent gentlemen who constituted that Select Committee, that such temples should be excluded

[Mr. T. Namburumal Chettiyar]

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Clause 5—cont.

from the purview of the Bill. Apart from that, it is not stated anywhere that in the year 1842 alone the Government divested itself of all their powers in respect of the temples. They began gradually to abandon their rights and not until the year 1844 or 1845 did the entire abandonment take place. I would therefore suggest that my amendment should be substituted for (a), (b) and (c) of Sub-Clause 5.

“I may also submit, Sir, that there is a general impression among persons who will be affected by the introduction of this Bill that the object of the legislature in fixing the year 1842 is to bring in the Tirupati temple, whose income is something like 14 lakhs a year, within the purview of the Bill. Before the scheme under which the temple is now being administered was prepared, the income of the Tirupati temple was only about 4 lakhs or so; but under the scheme the temple began to improve and at present its income has risen to something like 14 lakhs or so. Instead of excluding that temple, it is a pity to ask it to contribute a percentage towards the expenses of the Board and the committees that are to come into existence under the Bill.”

The hon. the RAJA OF PANAGAL:—“Sir, the hon. mover of this amendment wanted to make out a case that the line of demarcation is rather arbitrary. It is not arbitrary, Sir; it is quite scientific. In the year 1842 the Government came to the conclusion that they should be divested of the management of all temples and they began to give them away from that time. So, those temples which before the year 1842 were State-managed temples came into the hands of individuals, who really were not the endowers of their property or their descendants. I am very sorry, Sir, that my hon. friend should have singled out persons who are likely to be affected by this legislation and suggested that the object of the framers of this legislation is to bring a particular institution under the operation of this Bill. I am afraid, Sir, he is not justified in making that remark. As a matter of fact, Sir, that particular institution which he has referred to has been the subject of very serious comments ever since this legislation to amend the Act of 1863 was thought of. The hon. Mr. Rama Ayyangar in his report refers to the management of this temple and takes the Government to task for having allowed a single individual, an irresponsible individual, to be in management of this celebrated temple with very large incomes both from the landed properties and from gifts from the public. Sir, judging from the experience of the past, this particular institution requires the protection of legislation. During the last 30 years, that is to say during the time of the three predecessors of the present manager, or trustee, there have been cases in which their management has been questioned seriously.”

The hon. the PRESIDENT:—“I do not think that the hon. the Minister can go into such great details with regard to one temple though he can refer to it as an instance; because if we begin to go into the merits of the management of the Tirupati temple, it will be rather going too far.”

The hon. the RAJA OF PANAGAL:—“It is not my idea, Sir, to go into such details, but since my hon. friend referred to the temple, I wanted to explain matters.”

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[The Raja of Panagal]

Clause 5—cont.

“In these circumstances, it is evident, Sir, that it is not the intention of Government to single out this or that institution for bringing it under the management of the Committee, but it is only to bring a class of institutions under its management.”

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—“Sir, since that temple is now working under a scheme which provides simple means of rectifying all irregularities, if at all the State wants to interfere with its management, the High Court can as well be moved to review the scheme instead of duplicating the machinery of control. But, Sir, it may be contended that such references to the Court would mean a lot of time; but I understand that preference is to be given to temple suits in the same way as criminal suits are preferred to civil suits. The scheme management appears to provide against all sorts of contingencies. I therefore press my motion.”

The amendment was put and lost.

(Amendment No. 27.)

Mr. T. SOMASUNDARA MUDALIYAR :—“Mr. President, the amendment standing against my name reads as follows :—

(a) For items (a) and (b) substitute the following :—

‘(a) a temple which before 1801 was, and since 1863 has continued to be, under the sole management of a trustee whose nomination did not vest in, nor was exercised by, Government, nor was subject to the confirmation of the Government or of any public officer.’

(b) Re-letter the subsequent item (c).

Since the abandoning of the temples began only in 1842—and it cannot be positively said that all temples were handed over in 1842 itself—and as it is well-known that the properties of many temples were handed over long after, it is necessary to fix another later date. I therefore move my amendment.”

The hon. the RAJA OF PANAGAL :—“Sir, there is some force in my hon. friend’s contention. I have no objection to accept the amendment, provided after the word ‘by’ and before the word ‘Government’ the definite article ‘the’ is inserted. The second part of the amendment is only a verbal change in the lettering of the item.”

The amendment, as altered by the Raja of Panagal, was put to the House and carried.

(Amendments Nos. 28, 29 and 30.)

The hon. the PRESIDENT :—“Amendments Nos. 46 and 46-A on the agenda go out because the words ‘in 1842’ do not occur anywhere in the new amended Sub-Clause. At present, I can only go according to the agenda paper.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“I am only referring to the agenda paper. I wish to move the amendment (No. 46-A) standing in my name.”

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Clause 5—cont.

The hon. the PRESIDENT :—"The hon. Member will please permit me to finish what I was saying. The hon. Member's proposal is :

In item (a) for the words 'in 1842' substitute the words 'at the time of the passing of the Act XX of 1863'.

"The words 'in 1842' occur nowhere in item (a) as now amended."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"What I wish to mention is this : Of course, in giving notice, I can only go upon the Bill as it stands and therefore it was that I had to mention 1842. Now that this has given place to another date, if I may respectfully say so, Sir, you should allow me to move my amendment, the amendment being that all temples the appointment of the trustees of which did not vest in Government at the time of the passing of Act XX of 1863, must be considered as excepted temples. I quite agree that if the spirit of this amendment is opposed to something which has been already passed, I am not entitled to move it. As a matter of fact all that I am seeking is to add to the class of excepted temples and therefore it is I wish to move my amendment. I wish that not merely temples which had a hereditary trustee and were founded before 1801 and subsequent to 1863 should be considered as excepted temples, but also those which have had a succession of hereditary trustees from 1863 onwards."

The hon. the PRESIDENT :—"All the same the hon. Member is out of order. As a matter of fact, I have nothing to do with the intentions of hon. Members when they give notices of amendments. I can only put amendments as they come up. The hon. Member will remember that when the previous amendment was taken up I advisedly asked, 'Does any other hon. Member wish to speak on the subject?' meaning particularly those hon. Members who had given notices of motions which would automatically go out. That was why I took the somewhat unusual course of inviting hon. Members who had not spoken to speak on the subject. That was not an accidental statement at all. What the hon. Member should have done I had better explain now so that it may be of help to other hon. Member also. When hon. Members find that a motion which would turn them out of order is coming on before the House they should at once rise and speak against it or put forward their suggestions as amendments to that motion. Now, it is too late for the hon. Member Mr. Govindaraghava Ayyar, and I am awfully sorry I have to rule him out of order."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"With regard to 47-A I do not think you will allow me to move it, because I take it, that it is covered by the previous motion."

The hon. the PRESIDENT :—"The hon. Member is technically entitled to do so."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"I do not move amendment No. 47-A, viz., to omit item (b)."

The amendment was deemed to have been withdrawn.

(Amendment No. 31.)

Mr. C. V. VENKATARAMANA AYYANGAR :—"Since the amendment of Mr. S. Somasundara Mudaliyar has been carried, my amendment would have to be re-lettered and read thus :

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Clause 5—cont.

For item (b) substitute the following :—

‘(b) a temple which is managed by a hereditary trustee.’”

The hon. the RAJA OF PANAGAL :—“ It is not substitution, it is addition that he wants.”

MR. C. V. VENKATARAMANA AYYANGAR :—“ I simply want to say one or two words so as to point out that there is some difficulty in the matter of temples founded since 1842 in respect of succession and so on. That is to say the temples which would come under this particular class should have been founded after 1842. Supposing there is a temple founded before 1842, but managed by a trustee only since 1842, this temple would not be in a better position than a temple founded only two years ago. The class of excepted temples, as it is now defined, would be confined only to temples which have been recently founded and not temples which were existing before 1842 and which have only recently adopted the policy of having hereditary trustees. So that the words ‘founded since 1842’ do not put the latter class of temples in a better position even though they are much older and much more revered than the new temples.”

DIWAN BAHADUR L. A. GOVINDARAGHAVA AYYAR :—“ Sir, I rise to a point of order. I think this amendment is covered by the other one that has already been passed, viz., the one proposed by Mr. Somasundara Mudaliyar. If this amendment includes anything which is inconsistent with that amendment I submit, Sir, everything else will go. This will also be out of order.”

MR. C. V. VENKATARAMANA AYYANGAR :—“ I am sorry that the hon. Member should have raised this objection at all. It is certainly not correct to say that. What I was going to say was that it was simply to remove the anomaly I referred to above that I had proposed this amendment. My hon. friend Mr. Govindaraghava Ayyar seems to have the Tirupati temple in his mind.”

DIWAN BAHADUR L. A. GOVINDARAGHAVA AYYAR :—“ I have not had only the Tirupati temple in mind.”

MR. C. V. VENKATARAMANA AYYANGAR :—“ I have in mind so many temples which have been founded after 1841. Some of these are at this time managed by hereditary trustees. I simply say that the words ‘founded since 1842’ may affect temples which are older than those which will not be affected.”

The hon. the RAJA OF PANAGAL :—“ *Prima facie*, the amendment is against the spirit of the resolution which has already been passed. I cannot understand what my hon. friend means by saying ‘temples managed by hereditary trustees’. There may be a hereditary trustee in regard to certain other trusts. He may be a trustee of a trust of which he or his ancestor is not the endower. In other words ‘A’ may be the hereditary trustee of a school. If he happens to come in possession of the management of a temple after 1842, does the hon. Member want that he should have the same privilege as one who endowed a temple or who held it before 1842? I cannot understand what my hon. friend aims at. I therefore oppose his amendment.”

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Clause 5—cont.

MR. J. V. VENKATARAMANA AYYANGAR :—" My answer is this : The Bill, as it is, only provides for temples held by trustees after 1842. There may be temples managed by hereditary trustees before 1842. The Bill will not touch such temples."

The motion was put and lost.

(Amendment No. 32.)

RAO BAHADUR A. S. KRISHNA RAO PANTULU :—" Sir my amendment is :
To omit the words ' founded since 1842 ' from item (c) .

If this amendment is carried, the item will read as follows :

' (c) a temple the right of succession to the office of trustee whereof is hereditary or specially provided for by the founder.'

The only point which we have to consider in dealing with this amendment is the circumstances which led to the fixing of the year 1842 as the criterion for making this definition. The hon. the Raja of Panagal in dealing with the previous amendment stated briefly the circumstances under which that year was fixed. I may draw the attention of the House to the Report of the Select Committee and to the remarks appearing in paragraph 7 of that Report. It gives us an idea of the reasons which induced the Committee to adopt the year 1842 as the dividing factor for the purpose of deciding what are excepted temples and what are not. This is what is stated in the report :

Even among temples in sole charge of hereditary trustees the Bill will exclude cases where the hereditary character of the trusteeship came into being for the first time after 1842. The year 1842 has been chosen as that was the year in which Government began abandoning their control over temples in pursuance of the orders of the Court of Directors directing severance of connexion with all idolatrous institutions. When handing over the institutions which had previously had no hereditary trustees, the Government started in certain cases a new line of hereditary trustees after 1842, and we consider that institutions in the sole charge of such trustees are not entitled to any privileged treatment.

The only reasons suggested by the Select Committee are that in 1842 the Government adopted a different attitude regarding the management of these institutions which till then lay in their hands. I think this cannot be taken as the criterion. Let me remind the House that in 1842 action was taken only as a matter of accident. We have no reason to suppose that what happened in 1842 could not have happened in other years. So it practically amounts to fixing that year arbitrarily. Let us also remember that since that year various changes have taken place and in 1863 we had the Religious Endowments Act of 1863. In view of the above and in view of the subsequent events, why we should go back to 1842 is a position which I cannot understand. If the hon. the Raja of Panagal cannot satisfy us that for fixing the year 1842 as the criterion there are reasons other than that of the accident of the Government's change of attitude, there is no justification for adopting that year arbitrarily. It is not necessary on this motion, as it was done unfortunately on a previous motion, to discuss about any particular institution at all. I think the hon. the President has correctly given the ruling that in amendments of this sort, questions relating to particular institutions should not come. Therefore, taking the question generally, may I ask whether we are going to have the year 1842 as the starting point because the Government took a certain action in that year? It would be much more reasonable if the Government had started

4-15 p.m.

26th March 1923] [Mr. A. S. Krishna Rao Pantulu].

Clause 5—cont.

from the year 1863 when there was a regular enquiry in regard to these religious questions. Again, a period of 80 years is too long a period to consider in dealing with these questions. There have been various Bills afterwards such as the Bill of 1872, the Bill of 1886, and other subsequent legislative measures. Therefore, to fix a period of 80 years is, I think, very unreasonable and unfair, because even in respect of ordinary matters, limitation period of 12 years is fixed. Therefore, to fix a period of 80 years for this question is altogether unreasonable."

The hon. the RAJA OF PANAGAL :—"I have already explained that the year 1842 has not been arbitrarily chosen, and that it was thought of because in that year the Government decided upon handing over the State-managed temples to private persons for management. Besides, Sir, in all the previous Bills that is the year that has been referred to as the starting point, and that is the reason why I have adopted the same year here."

The amendment was put to vote and lost.

(Amendment No. 33.)

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I beg to move—

- (i) *At the end of item (c) substitute a semi-colon for the full stop and add the word 'or'.*
- (ii) *Add the following as item (d) :—*

'(d) a temple in respect of which a scheme for administration has been framed by a court of competent jurisdiction'.

Hon. Members will see that there are two classes of temples included in the definition of 'excepted temples' and this will be a third class. As the Bill is framed, hon. Members will see that there are two methods of administration: one by the committee, and the other by the Board of Commissioners. Of course, the question of the Board of Commissioners has not yet been decided. The Bill proceeds on the assumption that there should be two methods of administration and control, and I suggest by this amendment that those temples whose administration has been conducted in accordance with the schemes framed by the courts should be placed in the category of the less rigorous control to be exercised by one of the two bodies mentioned in this Bill, namely, the Board. I may say, for example, that there are temples of all-India importance like the temple of Rameswaram for which schemes have been framed. I believe there is a scheme for the temple at Madura."

The RAJA OF RAMNAD :—"Not yet in Madura."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"It ought to have been framed. I express my desire for a scheme. Then as regards Conjeeveram temple, for which a scheme has been framed, I think it is in good working order. I believe there is a scheme in Srirangam temple which is being worked out. Then there is Tirupati. All these are temples in Southern India where administration has been carried on under schemes framed by competent courts, and I submit that if there is to be any variation made in these schemes then the fact that these temples are being now included in the category of 'excepted temples' will not prevent the framing of other schemes. If these temples have been administered under the direction of courts for all

[Mr. M. Ramachandra Rao Pantulu] [26th March 1923]

Clause 5—cont.

these years, it seems to me that it would be far better to pull them out of the control of the local committees and place them on the much more elastic body, namely, the Central Board which the Minister has in view, and whose inclusion in the Bill has yet to be decided. I therefore suggest that these temples should come under the category of 'excepted temples' and that I think will not in any way interfere with the general scheme of this Bill."

The hon. the RAJA OF PANAGAL :—"The classification is based not upon whether any scheme was framed in regard to particular temples, but whether a particular temple was a privately endowed temple, or was managed by the State and handed over to trustees. My hon. friend has referred to the fact that some of these are very important temples. That only goes to show why it is more necessary to bring these temples under proper control. Sir, for these reasons I am sorry I cannot accept his amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"My hon. friend has really missed the point of my argument, and that is, that those temples which are working under schemes would be pulled out of the contentious local committees. I do not say that they should be let off without any control. But I say that they should be controlled by a much more responsible body which my hon. friend wishes to introduce by this Bill. I may say, Sir, with the knowledge that I possess of these temples, that they are of an all-India character, that their affairs are very large, that their incomes are pretty good, and that their general administration is certainly much more important, though not so important to the particular locality. I do not think my hon. friend can say that a temple like that of Rameswaram or Madura can be managed by a local committee. I am mentioning a certain class of temples. There may be others. All that I am submitting is, that these are important institutions, and the best method of managing them is to bring them under the category of 'excepted temples' and manage them by a body which it is proposed to constitute under this Bill. My hon. friend knows that it is very easy to get the local committees to quarrel and disorganize the whole thing much to the discredit of the religious institutions. I really do not see how my hon. friend has met my point."

The hon. the RAJA OF PANAGAL :—"My hon. friend says that to bring them under the management of committees is to disorganize them. I do not think so. If my friend thinks otherwise I can only say that all those who in their previous Bills wanted to have the constitution of these committees must have erred along with me. There is one doubt which I have. Is it the contention of my hon. friend that, if the trustee of a temple for the management of which a scheme has been framed happens to be a non-hereditary trustee, that temple should go under the category of 'excepted temples'? Sir, in the framing of the scheme either on account of the collusion of the parties or of some other accident there might have been a mistake. Are we to allow the collusion or the accident to be taken advantage of by the trustees of such temples? I think the hon. Member wants to introduce a risky test, and I am not prepared to agree to it."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"It is somewhat difficult to follow the arguments of my hon. friend, the Raja. My hon.

26th March 1923] [Mr. L. A. Govindaraghava Ayyar]

Clause 5—cont.

friend, the Leader of the Opposition, has raised a point very neatly. It was this: Schemes have been framed for certain temples which are not merely of local importance but of all-India importance. And it has already to be presumed that you have got schemes and that routine administration has been provided for; so that questions which are likely to arise again in connexion with scheme temples are questions more or less of a larger character which you can entrust to a Central Board with more confidence than to a local committee. The local committees are likely to be largely influenced by factious considerations. If, as a matter of fact, there is faction in a certain place—let me take it that in most of these places there will be factions—the Central Board or a Court will have a better opportunity, and it is possible that we may take them to possess a higher capacity than the members of the local committees. For the purpose of correcting any such matter and also in view of the fact that these temples are of an all-India importance, my hon. friend has suggested that the object of having these excepted temples could be very satisfactorily achieved by putting such temples for which schemes have already been framed in the category of 'excepted temples' than allowing them to be placed under the management of committees. That is really his point. As a matter of fact, schemes have done some work which the committees are expected to do in respect of these temples. It may be there are errors in the schemes that can be much better set right by a Board and by a recommendation coming from the Board. For that purpose it seems to me that the House would be well-advised in accepting this amendment."

Mr. A. RAMASWAMI MUDALIYAR :—"I rise to oppose the amendment that has been moved by my hon. friend, Mr. Ramachandra Rao. 4-30 p.m. Sir, the classification which has been adopted in our definition of excepted temples is a classification based upon the question as to who founded the temples. What he wants to bring in does not relate to that idea. It relates to all temples in respect of which schemes have been framed, whether big or small, and however unimportant they may be. The privilege that is sought to be given under the Bill is a privilege to the donor who has done some service to the public by endowing large properties from his private income on these temples. The privilege that my friend wants to maintain is for temples in respect of which schemes have been already framed and which *a priori* have been found to be mismanaged in some cases. As regards the question of throwing the scheme temples to the contentious local committees, I should like to draw the attention of my friend to Clause 16 by which the local Government constitutes committees for these temples. Under that clause sufficient care is taken to direct the constitution of a committee for any temple or temples or any class of temples, and to provide a particular electorate or a particular electoral area. Then if the local Government take into consideration some of the temples of all-India concern, they direct not localised committees but committees of a more extended and varied character. Lastly, I should like also to point out that in the Bill, as it is now framed, scheme temples are specially provided for and when the schemes now provided are considered to be schemes framed under the Bill it is the Board alone that can change these schemes. Under all these circumstances I oppose the amendment."

[26th March 1923]

Clause 5—cont.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I think my hon. friend Mr. Ramaswami Mudaliyar has slightly misunderstood me. It is exactly the reason that he mentioned last that induced me to table this motion."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" May I point out that the Board can under the Bill frame a scheme in the case of excepted temples also? "

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I do not wish to say anything different from what my friend Mr. Gopalaswami Ayyangar has said. I think we should have had this illuminating argument at an earlier stage. But he has denied it to us."

The motion was put and lost.

A poll was demanded and the House divided as follows :—

Ayes.

- | | |
|--|---|
| 1. Diwan Bahadur M. Ramachandra Rao Pantulu. | 7. Rai Bahadur T. M. Narasimhacharlu. |
| 2. " L. A. Govindaraghava Ayyar. | 8. Diwan Bahadur D. Seshagiri Rao Pantulu. |
| 3. Rao Bahadur A. S. Krishna Rao Pantulu. | 9. Mr. R. Srinivasa Ayyangar. |
| 4. Mr. P. Siva Rao. | 10. Diwan Bahadur Govindoss Chathurbhuj Doss. |
| 5. " C. V. Venkataramana Ayyangar. | 11. Rao Bahadur T. Namburumal Chettiyar. |
| 6. " M. Suryanarayana. | |

Noes.

- | | |
|--|--|
| 1. The hon. Sir Charles Todhunter. | 25. Mr. M. Narayanaswami Reddi. |
| 2. " Khan Bahadur Sir Muhammed Habib-ul-lah Sahib Bahadur. | 26. Rao Bahadur C. Natesa Mudaliyar. |
| 3. " the Raja of Panagal. | 27. Mr. V. P. Pakkiriswami Pillai. |
| 4. " Rai Bahadur K. Venkatarreddi Nayudu. | 28. " P. T. Rajan. |
| 5. " Rao Bahadur A. P. Patro. | 29. " W. P. A. Saundarapandiya Nadar. |
| 6. " Mr. C. P. Ramaswami Ayyar. | 30. " R. K. Shanmukham Chettiyar. |
| 7. Mr. A. Y. G. Campbell. | 31. " K. Sitarama Reddi. |
| 8. Rai Bahadur N. Gopalaswami Ayyangar. | 32. " T. Somasundaram Mudaliyar. |
| 9. Mr. C. Madhavan Nayar. | 33. " S. Somasundaram Pillai |
| 10. Diwan Bahadur T. N. Sivagnanam Pillai. | 34. " A. Subbarayudu. |
| 11. Mr. E. Periyannayagam. | 35. " P. Subbarayan. |
| 12. Rao Sahib T. C. Tangavelu Pillai. | 36. " V. C. Vellingiri Gounder. |
| 13. Mr. A. Ramaswami Mudaliyar. | 37. Rao Bahadur C. Venkataranga Reddi. |
| 14. Rao Bahadur T. A. Ramalinga Chettiyar. | 38. Diwan Bahadur R. Venkataratnam Nayudu. |
| 15. Mr. S. T. Shanmukham Pillai. | 39. Mr. S. Muttumanikkachari. |
| 16. S. R. Y. Ankinedu Prasad Bahadur. | 40. " T. Sivasankaram Pillai. |
| 17. Rao Bahadur P. C. Ethirajulu Nayudu. | 41. The Raja of Ramnad. |
| 18. Diwan Bahadur Sir P. Tygaraya Chettiyar. | 42. Mr. Abbas Ali Khan Bahadur. |
| 19. Diwan Bahadur M. Krishnan Nayar. | 43. " A. D. M. Bavotti Sahib. |
| 20. Mr. W. Vijayaraghava Mudaliyar. | 44. Muhammad Abdur Rahim Khan Sahib. |
| 21. Rao Bahadur K. Gopalakrishnayya. | 45. Munshi Muhammad Abdur Rahman Sahib. |
| 22. Mr. J. Kuppuswami. | 46. Khan Bahadur Muhammad Usman Sahib. |
| 23. " B. Muniswami Nayudu. | 47. Rao Sahib M. C. Madurai Pillai. |
| 24. " A. T. Muttukumaraswami Chettiyar. | 48. Mr. G. Vandanam. |
| | 49. Rao Sahib P. Venkatarangayya. |

Eleven hon. Members voted for the motion and 49 against it. The motion was lost.

(Amendment No. 34.)

Rai Bahadur T. M. NARASIMHACHARLU :—" I beg to move—

- (1) *At the end of item (c) for the full stop substitute a semi-colon and add the word 'or'.*

26th March 1923] [Mr. T. M. Narasimhacharlu]

Clause 5—cont.

(2) *Add the following as item (d) :—*

‘(d) a temple whose sole management since 1842 has continued to be under a trustee whose nomination did not vest in nor was exercised by the Government nor was subject to the confirmation of the Government or any public officer.’

“My point is that, when the Government resolved upon making over the management of these temples, they did it under an agreement and a counter-agreement between the parties. There was no reservation at all in those agreements that the Government would at any time resume the superintendence of these Hindu temples. Now, Sir, after 80 years, for the Government to go back upon their word and assume superintendence of these temples through their local committees, I submit, is wrong in principle. Moreover, to use the language of the Limitation Act, the Government are barred by the Limitation Act in trying to assume management of the temples through the committees. Even in the Act of 1863 these temples were classed under Section 4 and they were not brought under the management of the local committees. Now, Sir, the reason why Act 20 of 1863 was passed was that there was not sufficient and proper check on the temples which were not managed by the trustees. If this reason held good then they could have brought this also. But they thought that they should not go back upon their word and assume superintendence over these temples. Now, Sir, it was suggested that in some of the previous Bills, especially in Sir Muthuswami Ayyar's Bill, this was sought to be included. But I submit, Sir, that at that time the sixty years' rule had not lapsed. Sir Muthuswami Ayyar's Bill was in 1892 or 1893, and Mr. Chentsal Rao's Bill was in 1899. That was within 60 years. Now, Sir, 81 years have passed, and I submit this is a thing which has been given up by agreement between the parties, between the trustees on the one hand and the Government on the other. When there was no reservation or condition to that contract the Government ought not to go back upon their word. Secondly, even in the case of the adverse possession the rule exists only for sixty years. Now we have eighty-one years to the credit of these trustees. Therefore I submit, Sir, it is not proper for the Government to go back upon their word and assume management over these temples.”

MR. T. SIVASANKARAM PILLAI :—“Mr. President, I have heard carefully the discussion that has taken place over the definition of the ‘excepted temple’. To my mind the difficulty can be obviated by accepting my amendment notice of which I have given two days back.”

THE HON. THE PRESIDENT :—“I thought the hon. Member rose to support Mr. Narasimhacharlu's amendment.”

MR. T. SIVASANKARAM PILLAI :—“I only wanted to throw out a suggestion.”

THE HON. THE PRESIDENT :—“To whom?”

MR. T. SIVASANKARAM PILLAI :—“To the President or to the House.”

THE HON. THE PRESIDENT :—“I must apologize. The hon. Member should speak on the amendment before the House.”

MR. T. SIVASANKARAM PILLAI :—“To obviate the difficulty, I suggest this amendment. What I say is only in the shape of a suggestion. If it is agreeable to the House or to the President himself, he may allow the amendment notice of which I have given three days back.”

[26th March 1923]

Clause 5—cont.

The hon. the PRESIDENT :—" I understand the hon. Member wants to move an amendment notice of which was given three days ago and which was therefore ruled out. I now call upon the hon. the Raja of Panagal to reply."

The hon. the RAJA OF PANAGAL :—" What I said in regard to the previous amendment more or less applies to this amendment too. The criterion to determine whether a particular temple should be given the status of an 'excepted temple' or not is not the fact that it was for a long time managed by a hereditary trustee but the fact whether it is in the line of the original endowers. Moreover, Sir, my hon. friend said that the trustees in some cases had continued to be for more than sixty years, that the new rule of sixty years' limitation had come in, and that therefore it was not open to the Government to introduce any legislation after 80 years. I do not think, Sir, he is right in his reasoning, because there has been a lapse of 80 years.

4-45 p.m. "Another point to which my hon. friend has referred is, that the Government handed over the management to certain trustees, and so they should not now go back upon what they had done. But there is no attempt made to take any trust from the management of a trustee. The idea is to impose certain limitations, which, I think, the Government is entitled to do, whenever they think it necessary. Under these circumstances, I cannot accept my hon. friend's amendment."

[Rai Bahadur T. M. NARASIMHACHARLU :—" I press this amendment for the simple reason that the Government did not make any such reservation when the management was handed over to the trustees. Not having done so, is it now open to the Government at this distance of time to say 'it is our pleasure to impose limitations and conditions now'?"

The hon. the RAJA OF PANAGAL :—" May I know from the hon. Member whether in the case of permanently settled estates, there was any land-cess levied prior to 1886? If not, is it now open to the Government to levy land-cess?"

Rai Bahadur T. M. NARASIMHACHARLU :—" Unfortunately, the hon. the Minister is not a lawyer. There is absolutely no connexion between the levying of a cess, where there was no agreement between the parties, and this case. Here it is a matter of agreement between the trustee and the Government. The agreement and the counter-part are also translated, printed and circulated to us."

Mr. A. RAMASWAMI MUDALIYAR :—" May I ask the hon. Member if it is not a fact that in the case of some hereditary trustees, the Government did not covenant with them for the proper administration of the trust property?"

The hon. the RAJA OF PANAGAL :—" My hon. friend as a lawyer suggested that I was not a lawyer and that therefore my contention was not good. In spite of it I maintain that there is every connexion and that the analogy is quite good. There was an agreement between the holders of permanently settled estates and the Government that they would not levy any more cess or assessment. So if to-day they are levying additional cesses, they would be going back upon the original agreement."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I wish to know, as a point of order, whether the complaint of the zamindars about the levy of additional cesses is in order."

26th March 1923]

Clause 5—cont.

The hon. the RAJA OF PANAGAL :—“ It is not a complaint, Sir. I have introduced it only as an illustration to show that it is open to the Government to impose new conditions.”

Rai Bahadur T. M. NARASIMHACHARLU :—“ If there is any agreement and the Government are levying the cesses against the terms of the agreement, that wrong will not right this wrong.”

The amendment was put and lost.

Sub-Clause (6).

(Amendment No. 35.)

Rai Bahadur T. M. NARASIMHACHARLU :—“ Sir, I beg to move—

Add at the end the following :

‘ and includes trustees who succeed each other since 1842 without Government interference.’

“ I want to add this clause so that there may not be any difficulty hereafter with regard to the definition of ‘ hereditary trustee ’ and confusion may not creep in. Only I wish to make matters clear.”

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU :—“ Two people cannot succeed each other.”

Rai Bahadur T. M. NARASIMHACHARLU :—“ When one dies, the other succeeds. If there is any difficulty in the matter of language, the Government have a big beautiful machinery which can make it plain.”

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“ Mr. President, Sir, so far as the amendment is concerned, it affects the definition of the term ‘ hereditary trustee ’. What the hon. Member apparently wants is that where one trustee has been succeeding another since the year 1842 that should come under the definition of the term ‘ hereditary trustee ’. One trustee must have always succeeded another since 1842. I do not know if the amendment of the hon. Member takes us any further than the definition we find already in the Bill. If he means that where one trustee has succeeded another in a particular order or according to a particular usage, that should be included in the definition of the term ‘ hereditary trustee ’, I submit that that is already provided for in the definition in the Bill. But if he wants to reopen under Sub-Clause (6) things which have already been disposed of under Sub-Clause (5), submit that the amendment is out of order.”

Rai Bahadur T. M. NARASIMHACHARLU :—“ I only wanted to make the matter clear. But as my hon. friend assures me that this is already included in the Bill, I beg leave to withdraw my amendment.”

The amendment was by leave withdrawn.

New Sub-Clause after Sub-Clause (6).

(Amendment No. 36.)

Diwan Bahadur M. KRISHNAN NAYAR :—“ Sir, in the absence of my hon. friend Mr. Namburumal Chettiyar, I desire, with your permission and the permission of the House, to move the amendment standing in his name.”

The permission was granted.

Diwan Bahadur M. KRISHNAN NAYAR :—“ My thanks are due to you, Sir, and the House for granting me permission to move the amendment. I beg to move—

[Mr. M. Krishnan Nayar]

[26th March 1923]

Clause 5—cont.(a) *Insert the following as Sub-Clause (7) :—*

‘Income means the income from landed properties, topes, houses, leases, morais, shares, Government securities, mortgages but not any sums offered by worshippers in the temple daily, or by Utsavagars occasionally at feasts and festivities or contributions towards special objects such as lights with ghee, camphor, moneys, or gilding vahanams and providing gold and silver vessels and jewels.’

(b) *Renumber the subsequent Sub-Clauses.*

“The object of this amendment evidently is to take into account the income derived only from permanent properties such as immovable properties and not from what may be called temporary property. The object is also to respect the wishes of those who make special contribution to the temples.”

The hon. the RAJA OF PANAGAL :—“I do not wish to accept this amendment. But so far as the object of my hon. friend, Mr. Krishnan Nayar, is concerned, with regard to the offerings, that question will be considered when the definition of ‘Religious Endowment’ is taken up for discussion.”

The amendment was by leave withdrawn.

Sub-Clause (7).

(Amendment No. 37.)

Omit this Sub-Clause.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“Sir, I wish, first of all, to ask your ruling whether it is open to me to move the amendment standing in my name. The question as to whether *maths* come within the scope of the Bill or not has been discussed already.”

The hon. the PRESIDENT :—“I am very much obliged to the hon. Member. Of course, the well recognised principle of procedure is that any motion raising substantially the same question as has already been disposed of should not be made. I think that this morning, in another connexion, we dealt with and disposed of the question whether *maths* should come within the scope of the Bill or not. If this amendment is going to raise that question again, of course, it should not be moved. But I do not know whether the hon. Member is going to raise the same point.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“So far as my amendment is concerned, I gave notice of it with a view to exclude the *maths* from the Bill.”

The amendment was therefore deemed to have been withdrawn.

(Amendment No. 38.)

Mr. C. V. VENKATARAMANA AYYANGAR :—“Sir, I beg to move—

Omit the words ‘other than a temple or places of religious instruction’.

In Sub-Clause (7) it is stated that the *math* includes places of religious worship other than a temple, places of religious instruction, and so on. Sir, there are several kinds of *maths*: the Saivite *maths*, the Vaishnavaita *maths*, the Saivasiddhantha *maths* and so on; every *math* has got a temple and in every *math* or temple people are allowed to worship. Therefore, by saying that the *math* includes places of religious worship and not a

26th March 1923] [Mr. C. V. Venkataramana Ayyangar]

Clause 5—cont.

temple, we shall be creating a difficulty. There is no important math without a temple. I do not know if my hon. friends opposite can tell me if there is any big math without some temple or other dedicated to some god or goddess. In all these temples, the math money is used for expenses. The *matadhipati* goes into the temple and performs the *pūja*. I am not one of those who want maths to be excluded completely from the Bill. If

only this Clause remains as it is, the result will be that these *matadhipatis* will be subject to the control of the Board. As it is, anything that they get outside the temple they need not account for, but anything offered inside the temple must certainly be accounted for. Out of the income of the math a portion is spent for the temple and it will be very difficult to maintain a separate account for the temple. Therefore the provisions under which the math comes will be quite sufficient to include the temples attached to the math. Also, there is no math, so far as I know, without places devoted to religious instruction, nor is there any math without a temple attached to it. Anything done by the *matadhipati*, as giving instruction, paying some money to teachers, etc., should also come under the provisions of the Bill. Therefore, I request the hon. the Minister to give this exclusion to all temples, all places of religious worship and religious instruction. Otherwise, it will be placing unnecessary restrictions on the *matadhipatis* and will give rise to a lot of unnecessary litigation. For what is religious instruction apart from religious worship, and what is a temple apart from a place of religious worship? The purpose will be well served if whatever is connected with the math, either places of religious worship or religious instruction, comes under the definition."

The hon. the RAJA OF PANAGAL :—" If the temple referred to by my hon. friend from Coimbatore is a temple in the sense of *Devatarchana* belonging to a math, then it does not come under the definition of temple as defined in the Bill. If, on the other hand, it is a separate entity, then as I have already stated, the criterion is whether it is a temple once managed by the State or it is a temple which was endowed and continues to be in the hands of the head of the math. My hon. friend's amendment goes further than that. He wants to exclude all those temples which are under the management of heads of maths from the category of those other than the excepted temples."

MR. C. V. VENKATARAMANA AYYANGAR :—" I have made it very clear that these temples referred to by the hon. the Minister are not coming at all under the definition, but the other temples appurtenant to such institution, although they are inside the math, will come under the definition of the temple. I have carefully read the definition of the temple."

The hon. the RAJA OF PANAGAL :—" The criterion is whether the public are entitled to worship or not."

MR. C. V. VENKATARAMANA AYYANGAR :—" Certainly, if it is a place of religious worship, dedicated to the benefit of the public. So the *Saradambal* or *Narasimhaswami* temple or any other temple which is left open and dedicated to a portion of the public comes under the definition."

RAI BAHADUR N. GOPALASWAMI AYYANGAR :—" May I ask the hon. Member whether it is his intention that the *Lakshmi Narasimhaswami Vighraha* for which *pūja* is done in the *Ahobilam* math should be brought under the provisions of the Act which relate to temples or under the provisions which relate to maths? If it is his idea that it should be brought under the

[Mr. N. Gopalaswami Ayyangar] [26th March 1923]

Clause 5—cont.

temples I can understand his criticism ; but if he thinks that that little shrine belonging to the math should be brought under the special provisions of the Act relating to maths, then I think his criticism is without foundation."

Mr. C. V. VENKATARAMANA AYYANGAR :—"I said clearly that I want the Narasimhaswami temple only to come under maths. I did not want it to come under temples. Unfortunately, as it is, it comes both under temples and under maths."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"The definition means that a scheme like the Narasimhaswami Vighraha for which *pūja* is done will not be a temple within the definition of temple in the Bill, but will be a place of religious worship which is appurtenant to the math but is other than a temple. I think the English is perfectly clear."

Mr. C. V. VENKATARAMANA AYYANGAR :—"I certainly differ. The wording is 'a place of public religious worship and dedicated to or for the benefit of' the public. This Narasimhaswami temple is dedicated for the benefit of the public and it certainly comes within the definition of temple."

The motion was put and lost.

Mr. C. V. Venkataramana Ayyangar demanded a poll and the House divided as follows :—

Ayes.

- | | |
|--------------------------------------|---------------------------------|
| 1. Mr. C. V. Venkataramana Ayyangar. | 2. Mr. A. Ranganatha Mudaliyar. |
|--------------------------------------|---------------------------------|

Noes.

- | | |
|---|---|
| 1. The hon. the Raja of Panagal. | 26. Mr. P. T. Rajan. |
| 2. The hon. Rai Bahadur K. Venkatreddi Nayudu Garu. | 27. " W. P. A. Saundara Pandiya Nadar. |
| 3. Rai Bahadur N. Gopalaswami Ayyangar. | 28. " R. K. Shanmukham Chettiyar. |
| 4. Mr. C. Madhavan Nayar. | 29. " K. Sitarama Reddi. |
| 5. Diwan Bahadur T. N. Sivagnanam Pillai. | 30. " S. Somasundaram Pillai. |
| 6. Mr. E. Periyannayagam. | 31. Dr. P. Subbarayan. |
| 7. Rao Sahib T. C. Tangavelu Pillai. | 32. Diwan Bahadur K. Suryanarayanamurti Nayudu. |
| 8. Mr. A. Ramaswami Mudaliyar. | 33. Mr. V. C. Vellingiri Gounder. |
| 9. Rao Bahadur T. A. Ramalinga Chettiyar. | 34. Rao Bahadur C. Venkataranga Reddi. |
| 10. Mr. S. T. Shanmukham Pillai. | 35. Diwan Bahadur R. Venkataratnam Nayudu Garu. |
| 11. Diwan Bahadur S. Rm. M. Ct. Pethachi Chettiyar. | 36. Mr. S. Muttumanikkachari. |
| 12. Mr. K. Adinarayana Reddi. | 37. Rai Bahadur T. M. Narasimhaacharu. |
| 13. S. R. Y. Ankinedu Prasad Bahadur. | 38. Diwan Bahadur D. Seshagiri Rao Pantulu. |
| 14. Rao Bahadur P. C. Ethirajulu Nayudu. | 39. The Raja of Ramnad. |
| 15. Sir P. Tyagaraya Chettiyar. | 40. Abbas Ali Khan Bahadur. |
| 16. Diwan Bahadur M. Krishnan Nayar. | 41. A. D. M. Bavotti Sahib. |
| 17. Rao Bahadur O. I'anikachala Chettiyar. | 42. Muhammad Abdur Rahim Khan Sahib. |
| 18. Mr. W. Vijayaraghava Mudaliyar. | 43. Sayid Diwan Abdul Razaak Sahib. |
| 19. Rao Bahadur K. Gopalakrishnayya. | 44. Khan Bahadur Muhammad Usman Sahib Bahadur. |
| 20. Mr. J. Kuppuswami. | 45. Rao Sahib " C. Madurai Pillai. |
| 21. " B. Muniswami Nayudu. | 46. Mr. G. Vandanam. |
| 22. " A. T. Muttukumaraswami Chettiyar. | 47. Rao Sahib P. Venkatarangayya. |
| 23. " M. Narayanaswami Reddi. | |
| 24. Rao Bahadur C. Natesa Mudaliyar. | |
| 25. Mr. V. P. Pakkiriswami Pillai. | |

Two voted *for* and 47 *against*. The motion was lost.

The House adjourned at 5-10 p.m. to meet again at 11 a.m. next day.

L. D. SWAMIKANNU,
Secretary to the Legislative Council.